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ABSTRACT

Two newsletters are combined as one document. The first presents classroom strategies for both elementary and secondary students in a lesson entitled "Toward a Study of Policy." Methods suggested for developing the lesson include provocative questions, open-ended statements, student polls, pictures, films, posters, and use of police officers as resource persons. A news section describes five courses offered by the center in the fall on teaching about the law and criminal justice system, reports on the Third Annual Summer Institute, and describes the Law Resource Personnel Program offered by the center to Cincinnati-Hamilton County teachers and administrators. The remainder of the issue is devoted to a discussion of recent Supreme Court decisions and a plan for teachers to follow in using a Supreme Court decision in the classroom. The second describes the center's five spring courses and presents classroom strategies related to the teaching of law-related topics prepared by fall participants in the center's courses. Also included are an interview with the Director of Corrections for the Hamilton County Municipal Court on the "Adult Probation Officer," a survey of attitudes of Appalachian youth toward legal authority, a description of Ohio's new marijuana law, a description of the center's Law Resource Personnel Program, and information on recent Supreme Court decisions. (DB)

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FOCUS

NEWSLETTER OF
THE CENTER FOR LAW-RELATED EDUCATION

Volume Two, Number One — Fall, 1975

CLASSROOM STRATEGIES

TOWARD A STUDY OF POLICE

"Since this is a time of increasing crime, increasing social unrest and increasing public sensitivity to both, it is a time when police work is particularly important, complicated, conspicuous and delicate." This statement, by the 1967 Presidential Commission on Law Enforcement and Administration of Justice, suggests the need for citizens to critically examine the role and nature of police and police work in contemporary society.

Toward that end, the Center for Law-Related Education has developed and published a booklet designed for use by high school students and teachers entitled, *Focus on Police: Why, What and Who?* In the booklet issues are raised relating to the need for the police, the nature of police work and the services they render, as well as the areas of police recruitment and training. The approach is open-ended, incorporating an extensive variety of inquiry and value clarification techniques and procedures.

Focus on Police represents but the first of a series of curriculum booklets the Center plans on topics relating to law and the criminal justice system. Copies of this booklet are available to Cincinnati-Hamilton County educators upon request, free of charge.

The exercises below, designed for secondary school use, are excerpted from *Focus on Police.* Under no circumstances should they be regarded as a comprehensive treatment of the subject. Rather, each of the lessons which follow is designed to introduce a particular area of study, to be supplemented by *Focus on Police* and/or other textual materials and information.

PRIMARILY FOR SECONDARY STUDENTS

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A. Using An Open-Ended Statement: How Do You View The Police?

Radio, television, movies, newspapers and magazines all combine to present confusing and often conflicting views of the police. How do you picture the police? Is the person male or female, young or old, white, black or Hispanic? Is what the person does helpful or harmful, fair or unfair?

In considering such questions, complete the following statement according to how *you* view the police.

When I think of the police, I think of. . .

Classroom Procedures:

1. Have students list all of the things that come to mind. Ask each to arrange them into one or two descriptive paragraphs.
2. Solicit from students the various words they noted in response to the open-ended statement. Seek agreement on the main points and formulate a composite description based upon information volunteered by the class.
3. Post this description on a section of the chalkboard or bulletin board for the duration of the unit.
4. Using this statement as an hypothesis, seek to verify its accuracy. Introduce various data regarding the subject. Refer to the statement as the unit develops and revise when necessary.

B. Using A Hypothetical Situation: Are Police Necessary?

Consider the following story about a town without police. Do you agree with the author's predictions of what would happen in a town which suddenly found itself without laws or police?

A TOWN WITHOUT POLICE

The war had been going on for several years. Eventually, the territory surrounding the small town was invaded and overrun. The town was too small to attract the

continued on page 3

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The Board of Directors and staff of the Center for Law-Related Education wish to express their sincere appreciation to the Cincinnati-Hamilton County Criminal Justice Regional Planning Unit, the University of Cincinnati, and the Cincinnati Bar Association for their financial support of the Center's Programs.

The views and ideas contained in this publication should not be construed to be necessarily those of the Center's funding agencies.

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INTRODUCING FOCUS ON LAW

This is the first issue of the second volume of *Focus on Law*. Published three times a year—Fall, Winter and Spring, *Focus on Law* is distributed to Cincinnati-Hamilton County teachers and administrators free-of-charge by the Center for Law-Related Education.

Located at the University of Cincinnati's College of Education, the Center is committed to the development of a comprehensive program of law-related education throughout Hamilton County, Ohio. The Center, now in its third year, was established in response to the need to help reduce misunderstanding, skepticism, and ambivalence concerning the law, law enforcement and the administration of justice now evident in our society. Through extensive teacher-training, curriculum development, a law resource personnel service, and information programs, the Center is helping to provide teachers with the knowledge, skills, and materials requisite to teaching about the law and the legal system in their classrooms.

With *Focus on Law* the Center seeks to further its objectives by disseminating information about law-related education throughout the community. Its purpose is to help keep educators well informed and up-to-date on recent developments regarding the law and legal system with respect to law-related education. This issue of *Focus on Law* contains strategies—both elementary and secondary—for teaching about the police, information about recent Supreme Court decisions, and Center activities and programs.

Those wishing to receive this publication may either contact the Center for Law-Related Education, 635 Pharmacy Building, University of Cincinnati, Cincinnati, Ohio 45221, (513) 475-3982, or complete and return the request form below to have their names placed on the mailing list.

If you would like to receive FOCUS ON LAW free-of-charge, please complete the following and send it to the Center.

Name: _____

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_____

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Firm or School _____

Address: _____

_____

continued from page 1

attention of the invading army so they passed it by. The town's officials and police had fled before the invading forces. The people who remained behind were going to be on their own for some time.

At first, nothing much happened but then one night the local grocery store was broken into and looted. After that, the owner and his son took turns sleeping in the store with a loaded gun. Two days latter the owner's son shot and killed a youth who attempted to break into the store.

As the days passed by, reports began to circulate about gangs roaming the town harassing people and at times beating and robbing them. More and more women began to complain to their parents or husbands about attempted attacks as they went to and from work or school. Within a few weeks the school closed. Vandals had broken every window and destroyed the school's plumbing. The town's school age youth now roamed the streets during the day, often causing damage, breaking into homes, and stealing cars.

By the fourth week a group of citizens had banded together to form a vigilante committee. They pledged to shoot looters on sight and took turns patrolling their neighborhoods with groups of armed men. Several people were shot to death and many were beaten because they were caught doing something the vigilantes did not like. Often this happened to people who simply looked suspicious.

Eventually, gangs of robbers banded together to fight the vigilantes. Pitched battles were fought in the streets. Some people in the town who were not members of either group sent representatives to the leaders of the invading army with a request that some of the soldiers be sent to restore law and order to the town.

Questions:

1. What does the author suggest would happen in a town without laws or police?
2. If you lived in such a town, would you act any differently than you now act? Explain.
3. What effect do you think the return of the soldiers would have on this town? Why?
4. Would the existence of police change this situation in any way? Discuss.
5. What role or roles should the police play in a community?
6. Can you imagine a town that would not need a police force? Why or why not? If you can, what would such a town be like? Describe it.

C. Using A Rank Order: How Desirable An Occupation?

How desirable an occupation is police work? Consider the following occupations and rank them on the basis of their desirability as a career. Rank each from one to ten, with 1=most desirable occupation to 10=least desirable occupation. Only one occupation should be placed in each location on the continuum.

Most Desirable as a Job — Least Desirable as a Job

1	2	3	4	5	6	7	8	9	10

A. Judge
B. Auto Mechanic
C. Nurse
D. Police Officer
E. Accountant
F. Doctor
G. Teacher
H. Sales Person
I. Factory Worker
J. Social Worker

Classroom Procedures:

1. Have students individually complete the exercise.
2. Poll the class to determine the location of each occupation on the continuum.
3. Probe student responses where differences of opinion exist.
4. Ask students to identify those qualities which led them to their choice of most desirable occupation (#1) and least desirable occupation (#10). List them on the chalkboard. Compare and contrast.
5. Where did the class place police officer? Why?
6. What qualities of police work are most attractive? What qualities are least attractive? Discuss.

D. Using Provocative Statements: Who Should Be A Police Officer?

A recent nation-wide concern has been that of recruiting more female police officers and permitting them to receive the same types of assignments as male police officers. The nature of the problem can perhaps be realized when one considers that the first female agents to be admitted to the Secret Service (federal police) occurred as late as December, 1971, and the first females to become F.B.I. agents (federal police) did not take place until July, 1972.

The emphasis placed upon recruiting more female police officers and their use in assignments traditionally reserved for men have created considerable controversy among both police officers and citizens alike.

Below are four statements representing various views regarding women and policing. Consider each.

"Women have neither the presence or experience to compel people to respect and obey them as law enforcers. Most of the public will not take women seriously in such a role."

"Police agencies should make possible career paths for women, allowing each to obtain a position consistent with her particular degree of experience, skill and ability."

"Women do not have the same physical strength as men. They are thus not as able to defend themselves when attacked and would be inclined to use their revolver more often than a man who has a greater ability to use his physical strength to subdue an attacker."

Women should be used in all functions performed by the police, including patrol. There should be no discrimination in the assignment of police duties."

Classroom Procedures:

1. Have students indicate those statements with which they agree

and those with which they disagree. Discuss.

2. Ask: "Are special assignments necessary for males and females serving as police officers?" Discuss.
3. Ask: "What kinds of evidence would one look for to support or disprove these statements?" Explore issues of information gathered and criteria for data.

E. Using An Opinion Poll: Training—What Type and to What Extent?

In 1967 a study by the International Association of Chiefs of Police was conducted regarding the length of training required for one to serve in selected occupational capacities. It revealed that doctors received more than 11,000 hours of training, lawyers more than 9,000 hours, teachers more than 7,000 hours, embalmers more than 5,000 hours and barbers more than 4,000 hours. By contrast, the average police officer in the mid-1960's received less than 200 hours.

While progress has been made, a 1970 study by that same group reported that only nineteen states required police recruits to take more than 200 hours of instruction. However, the survey also showed that some police agencies have training programs which far exceeded the state minimum hour requirement.

How do you feel about the need for and nature of formal training programs for police. Respond to the poll below, indicating your views. Circle the appropriate response.

Poll on Police Training

Agree	Disagree	1.	The powers of arrest and the potential for injury are too great to allow policemen to practice their profession without adequate training.
Agree	Disagree	2.	The quality of police work in small and rural police departments does not warrant minimum requirements because state or county forces would handle serious incidents.
Agree	Disagree	3.	Required basic training programs for police recruits would take away needed monies from the police, especially from their efforts to combat crime.
Agree	Disagree	4.	Each police agency should be free to decide upon its own standards for police recruit training.
Agree	Disagree	5.	Formal classroom training is unnecessary for it does not meet the needs of the on-the-street police officer.
Agree	Disagree	6.	Any basic minimum training program for police recruits must combine both classroom and field experiences.
Agree	Disagree	7.	Each state should establish basic training requirements for police just as they do for teachers and professionals.

Classroom Procedures:

1. Compile the results for the entire class. Record them on the chalkboard, bulletin board, transparency or dittoed sheet.
2. Have class members discuss their differing opinions, indicating their reasons for the position(s) they have taken.
3. The results may be: (a) discussed immediately following the poll; (b) referred to as the unit progresses; or (c) discussed following the conclusion of the unit.

PRIMARILY FOR ELEMENTARY STUDENTS

A. Using A Checklist: How Do You View The Police?

Distribute the following list of words. Ask each student to check those words which best suggest his feelings or thoughts about the police.

___Bossy	___Fair	___Understanding
___Brave	___Foolish	___Unfair
___Calm	___Friendly	___Unfriendly
___Cowardly	___Helpful	___Unimportant
___Critical	___Honest	___Useful
___Dishonest	___Important	___Useless
___Disliked	___Kind	___Well-liked
___Excitable	___Mean	___Wise

Classroom Procedures:

1. Have each student add up the number of positive words and the number of negative words he checked.
2. Have each then substract the number of negative words checked from the number of positive words checked.
3. The total may be interpreted as indicating whether the student has a somewhat positive or negative feeling about the police.

B. Using a Film: Are the Police Necessary?

Film to be shown: "Why We Have Taxes: The Town That Had No Policeman"

Grade Level: K-3 Time: 7 Minutes Source: Learning Corporation of America

Summary:

Though primarily designed to examine the question of taxation, "Why We Have Taxes: The Town That Had No Policeman" is also an effective vehicle for exploring the need for police. The animated story is that of a town without police. When a thief begins to steal articles from the various townspeople, they gather together to decide what should be done about the situation. They ultimately decide to appoint a policeman. Each townsperson contributes part of his income to pay for the policeman (i.e., concept of taxes).

Classroom Procedures:

1. Show the first part of the film in which the various residents of the town are introduced. After the thief makes his appearances and steals from each of the residents, a town meeting is called. STOP the film at this point.
2. At this point, explore such questions as: (a) what was the problem? (b) why did the townspeople call for a meeting? (c) what could be done to prevent the thief from stealing again?
3. Resume the film. The townspeople discuss the problem and decide to appoint a police officer. They choose the builder's son, but he asks how he will get money for he has no goods to sell. STOP the film when the townspeople agree this will be a problem.

4. Examine such issues as (a) why did the townspeople feel it necessary to appoint a police officer rather than do the work of the police themselves? (b) how would a police officer help them (e.g., arrest, deterrence)? (c) how will the builder's son be paid?
5. Resume the film. The tailor suggests that each of the townspeople contribute a small portion of their income (i.e., taxes) to pay for police protection. The police officer is hired and he apprehends the thief. The remainder of the film briefly indicates other people (e.g., mailmen, teachers, firemen) who, as public employees, have their salaries paid by taxes.
6. At the conclusion of the film, the teacher may, depending upon the sophistication of her class, explore: (a) should public employees be paid as much as private businessmen as the film suggests? (b) should everyone pay the same amount of taxes as implied in the film? (c) why do people complain about taxes? Other questions will become apparent after viewing the film.

C. Using Pictures and Posters: What Do the Police Do?

Especially at the primary level, the use of pictures and posters can be an effective means for introducing the police and increasing the awareness of children as to the role of the police in our society. In addition to materials commercially available (e.g., "Our Friend the Police Officer" by Ideal School Supply Company, Oak Lawn, Illinois 60453), the teacher may wish to create them herself or even have the children provide them. Magazines are especially good sources of pictures, particularly those magazines which contain large photographs.

Classroom Procedures:

1. The teacher may wish to draw or find pictures that illustrate different aspects of police work. Students could also be asked to bring in a picture or pictures from a magazine illustrating the police or police work. Place them on sheets of large poster board so that the children will be able to see them clearly.
2. The posters may include scenes illustrating such topics as: (a) directing traffic; (b) helping at an accident; (c) giving aid to the injured; (d) arresting someone; (e) rescuing an animal in a tree; (f) supervising at a football game; (g) helping a lost child; or (h) settling an argument.
3. Hold up one poster at a time and ask children to identify the scene and to suggest a few words that could be used as a caption. After reaching a class consensus, print the caption in large letters near the bottom of the poster.
4. The teacher may wish to have students discuss their reactions to each picture. Ask students whether they, their family, or any of their friends have seen or had a similar experience. Have them describe the incident and their reactions to it.
5. Display each poster prominently throughout the room. As a follow-up activity, the teacher may wish to divide the class into small groups and provide each group with a number of old magazines and newspapers. Using scissors and paste, have each group prepare a collage which illustrates different types of police work.

D. Using a Poll: How Desirable An Occupation?

How desirable an occupation is police work? Consider each of the following questions and circle the appropriate response:

Agree	Disagree	Not Sure	1.	The police get critized too often.
Agree	Disagree	Not Sure	2.	People would be better off without police.
Agree	Disagree	Not Sure	3.	Being a police officer is a good job for a man or woman.
Agree	Disagree	Not Sure	4.	Police officers do many different jobs.
Agree	Disagree	Not Sure	5.	I would like to be a police officer.
Agree	Disagree	Not Sure	6.	Police treat all people fairly.
Agree	Disagree	Not Sure	7.	Police work is too dangerous.

Classroom Procedures:

1. Tally the results for the class by having the students raise their hands indicating their response after each item.
2. Ask students to explain why they responded as they did. Discuss.
3. Where additional factual information seems warranted, either assign to students or, depending on grade level, introduce such information and share with students. For example, Question 4 will permit an opportunity for the teacher to explain the many different career opportunities available in police work.
4. You may wish to invite a representative from your local police agency to speak to students and answer their questions regarding these or other issues.

E. Using a Resource Person: The Police Officer

A valuable means of furthering understanding is to invite one or more police officers to speak to students in their class. Prior to the officer's appearance, the teacher should discuss with him the specific topic and approach desired. Students should be prepared *before* the speaker's arrival, and provided with some background to maximize the speaker's value. The Center will gladly arrange for such classroom visitations. (See Center News: Law Resource Personnel Program.)

Teachers may wish to have students prepare questions prior to the speaker's appearance (e.g., why don't all police wear uniforms? Why do police arrest people?). Following the appearance, the teacher may wish to use a follow-up activity such as asking several of the following questions:

I learned that. . . .
I agree that. . . .
I disagree that. . . .
I was surprised that. . . .
I wish that. . . .

F. Using Forced Choice/Rank Order: How Desirable An Occupation?

Following are some reasons that could be given as reasons leading an individual to become a police officer. Ask students to respond to each reason by placing an X in the appropriate column.

See top of right hand column for quiz.

See page 6 for poll.

Very Important	Not Very Important	Not Important At All		
_____	_____	_____	1.	Police make a lot of money.
_____	_____	_____	2.	Police can help people in trouble.
_____	_____	_____	3.	Police make sure people follow the law.
_____	_____	_____	4.	Police like to wear a uniform.
_____	_____	_____	5.	It is an exciting job.
_____	_____	_____	6.	Most people like police.
_____	_____	_____	7.	People need police to protect them.

Classroom Procedures:

1. Have students arrange their individual response into the three columns.
2. Obtain class consensus and place class responses into the three columns.
3. Have students explain why they choose those reasons to be most important. Repeat for those considered least important. Discuss.

CENTER NEWS

CENTER OFFERS FIVE FALL COURSES

During the Fall, 1975, the Center for Law-Related Education is offering a total of five courses on teaching about the law and criminal justice system. A total of 150 Cincinnati-Hamilton County social studies teachers and administrators are presently enrolled in these courses. Each received free tuition, texts, and curriculum materials and, upon successful completion of the course, will receive three (3) quarter hour graduate credits from the University of Cincinnati's College of Education.

Each of the courses meet once a week, from 7:00 to 9:30 p.m., for a period of ten weeks at strategically located schools throughout Hamilton County. The classes consist of substantive law presentations combined with educational workshops. In addition, each participant is provided an opportunity to participate in a police ride-along program.

The substantive law faculty is comprised of lawyers, judges, law enforcement officials, legislators, and corrections officials, all of whom donate their services to this important program. The Center's staff and Board of Directors are deeply appreciative of their contributions and would like to recognize those who are involved in the Fall, 1975, program. A summary of each of the topics and speakers for the Fall courses follows.

ELEMENTARY

Teaching Elementary Children About the Law–Mariemont Center
Ms. Nancy Cole–Education Coordinator

October 6	"Introduction"–Dr. David T. Naylor, Executive Director of the Center
October 13	"The Nature of Law"–Honorable Robert S. Kraft, Judge, Court of Common Pleas
October 20	"The Nature of Crime in America"–Dr. David T. Naylor
October 27	"How Laws are Made"–Mr. Thomas Y. Allman, Attorney, Legislative Assistant to Senator Robert Taft, Jr.
November 3	"The Role of the Police"–Lt. Robert Morgan, Cincinnati Police Division
November 10	"Educational Workshop"–Ms. Nancy Cole and Dr. David Naylor
November 17	"Rights of the Accused"–Mr. Bernard J. Gilday, Jr., Attorney-at-Law
November 24	"The Courtroom Drama"–Mr. John J. Getgey, Jr., Attorney-at-Law, President, Center's Board of Directors
December 1	"Dealing With the Guilty"–Mr. Phillip Muldoon, Deputy Director, Probation Services, Hamilton County Municipal Court
December 8	"Education Workshop"–Ms. Nancy Cole and Dr. David Naylor

Teaching Elementary Children About the Law–Sycamore Center
Dr. David T. Naylor–Education Coordinator

October 1	"Introduction"–Dr. David T. Naylor, Executive Director of the Center
October 8	"The Nature of Law"–Mr. Norman Slutsky, Attorney-at-Law
October 15	"How Laws are Made"–Honorable Richard H. Finan, Member Ohio House of Representatives
October 22	"The Nature of Crime in America"–Dr. David T. Naylor
October 29	"The Role of the Police"–Captain Lawrence Whalen, Cincinnati Police Division
November 5	"Education Workshop"–Dr. David Naylor
November 12	"Rights of the Accused"–Mr. Phillip E. Pitzer, Attorney-at-Law

November 19	"The Courtroom Drama"–Honorable Robert H. Gorman, Judge, Hamilton County Municipal Court
December 3	"Dealing With the Guilty"–Mr. Robert L. Masters, Attorney-at-Law, Treasurer, Seventh Step Foundation
December 10	"Education Workshop"–Dr. David T. Naylor

Teaching Constitutional Issues to Elementary School Children–Cincinnati Center (Crest Hills Jr. High School)

Mrs. Carol Bouldin–Education Coordinator

October 2	"Introduction"–Dr. David T. Naylor, Executive Director of the Center
October 9	"First Amendment and Freedom of Religion" –Mr. Thomas F. Waldron, Attorney-at-Law
October 16	"Church, State and the Law"–Mr. Charles H. Tobias, Jr., Attorney-at-Law
October 23	"Freedom of Speech"–Dr. David T. Naylor
October 30	"Freedom of the Press"–Mr. Sidney C. Lieberman, Attorney-at-Law
November 6	"Education Workshop"–Mrs. Carol Bouldin and Dr. David Naylor
November 13	"Equality and the Constitution–Part I"–Mr. Robert F. Laufman, Attorney-at-Law
November 20	"Equality and the Constitution–Part II"–Ms. Marlene Penny Manes, Attorney-at-Law
December 4	"Privacy and the Law"–Mr. Robert H. Davis, Attorney-at-Law
December 11	"Education Workshop"–Mrs. Carol Bouldin and Dr. David Naylor

SECONDARY

Youth and the Law–Archiocesan Center (Elder High School)

Mr. Robert Berta–Education Coordinator

September 30	"Introduction"–Dr. David T. Naylor, Executive Director of the Center
October 7	"The Legal Minor in Ohio"–Mr. Martin S. Pinales, Attorney-at-Law
October 14	"The Juvenile Delinquent: An Analysis"–Mr. Dennis Chandler and Ms. Susan Otto
October 21	"Landmark Supreme Court Decisions and the Juvenile Offender"–Mr. Peter M. Rehbold, Attorney-at-Law
October 28	"The Juvenile Court: Goals, Problems and Future"–Mr. Robert W. Rack, Attorney-at-Law
November 4	"Education Workshop"–Mr. Robert Berta and Dr. David T. Naylor
November 11	"Corrections Programs for Delinquent Youth" –Ms. Sharon Osterday, Ohio Youth Commission
November 18	"Students, Schools and the Constitution"–Dr. David T. Naylor
November 25	"Student Rights and Responsibilities: An Analysis"–Mr. Frank G. Davis, Attorney-at-Law
December 2	"Education Workshop"–Mr. Robert Berta

The Community and Its Police–Princeton Center

Mr. George Werden–Coordinator

September 30	"Teaching About the Community and Its Police"–Mr. George Werden
October 7	"Anatomy of an Urban Police Department"– Sgt. Eugene Ferrara, Cincinnati Police Division
October 14	"Recruitment and Training of a Police Officer" –Officer Ronald Kissinger, Cincinnati Police Division
October 21	"Plight of a Patrolman"–Sgt. Handy Matthews, Cincinnati Police Division
October 28	"Education Workshop"–Mr. George Werden
November 4	"Police Arrest and the Rights of the Individual"–Mr. James R. Rimedio, Attorney-at-Law
November 11	"Police Searches, Seizures and the Law"–Mr. Douglas M. Mansfield, Attorney-at-Law
November 18	"Post-Arrest Practices and Procedures"–Mr. Merlyn D. Shiverdecker, Assistant Hamilton County Prosecutor and Mr. James N. Perry, Attorney-at-Law
November 25	"Toward More Effective Law Enforcement"– Mr. Allen Brown, Attorney-at-Law and Mr. Jack Bywater, Director of Research and Planning, Hamilton County Sheriff's Department
December 2	"Education Workshop"–Mr. George Werden and Dr. David T. Naylor

REPORT ON THIRD ANNUAL SUMMER INSTITUTE

PARTICIPANT DATA REVEAL HIGH QUALITY OF TEACHER-TRAINING PROGRAM

From June 23-July 18, 1975, the Center for Law-Related Education conducted its Third Annual Summer Institute entitled "Teaching About Law in Social Studies Programs." Twenty secondary and twenty-four elementary teachers from the City of Cincinnati and other Hamilton County, Ohio schools were selected to participate in this intensive, four-week teacher-training program.

Held on the campus of the University of Cincinnati, the daily sessions combined substantive law and legal issue presentations with educational workshops dealing with teaching strategies and curriculum development. In addition, several field experiences provided opportunities for teachers to personally observe various aspects of the criminal justice system.

Dr. Isidore Starr, nationally recognized expert in the field of law-related education, served as a principal member of the Summer Institute faculty. A former president of the National Council for the Social Studies, Dr. Starr is the

author of numerous publications involving youth education and the law, including *Contemporary Issues and the Supreme Court*, as well as the Editor-in-Chief of Encyclopedia Britannica's "Living Bill of Rights" film series.

Other members of the substantive law faculty included:

Professor Harold Grilliot, Associate Professor of Business Law at the University of Cincinnati. Author of *Introduction to Law and the Legal System*, Mr. Grilliot has twice received the "Outstanding Professor of the Year" award for teaching excellence at the University of Cincinnati.

Mr. Robert O'Neil, Executive Vice-President for Academic Affairs at the University of Cincinnati. A law professor and former law clerk for Supreme Court Justice Brennan, Mr. O'Neil is author of a number of law and law-related works.

Mr. Louis J. Schneider, Jr., Attorney-at-Law. Mr. Schneider is a former member of the Ohio State Legislature and a former Judge of the Ohio State Supreme Court.

Honorable Thomas C. Nurre, Judge, Hamilton County Court of Common Pleas.

Captain Lawrence E. Whalen, Deputy Inspector with the Cincinnati Police Division. Captain Whalen is also a lecturer at the International Police Academy in Washington, D.C.

Mr. Merlyn Shiverdecker, Assistant Hamilton County Prosecutor.

Ms. Bea Larsen, Director of the Public Defender's Division of the Legal Aid Society.

Mr. James N. Perry, Attorney-at-Law.

Mr. Phillip J. Muldoon, Deputy Director of Corrections for the Hamilton County Municipal Court. Mr. Muldoon also serves as an instructor at both the University of Cincinnati's Evening College and Medical School.

Ms. Trudy K. Backus, Supervisor of the Legal Services Bureau of the Hamilton County Juvenile Court.

The curriculum for the four-week institute consisted of four main areas. Week one was devoted to an introduction to law and the legal system with special emphasis upon civil law, civil procedure and the judicial system. Week two focused upon an analysis of the criminal justice system with appropriate emphasis upon the role and functions of the police, the courts, and corrections. Week three explored the theme of justice in America and week four the theme of freedom and liberty in America.

A special effort was expended to secure a faculty knowledgeable in substantive law and experienced in teaching about law, especially to educators. By combining the talents of Professors Starr and Grilliot with the first-hand experiences and expertise of the other members of the law faculty, the Center was able to effectively achieve this balance, as evidenced by the strongly supportive comments of the teacher participants.

The substantive law presentations were combined with extensive educational workshop sessions which were directed by Dr. David T. Naylor, Assistant Professor of Education and the Executive Director of the Center for Law-Related Education, and both an experienced secondary school teacher, Mr. George Werden, and an experienced elementary school teacher, Mrs. Anna Lindholm, both of whom had previously participated in the Center's teacher-training programs (i.e., Summer Institute and Mini-Courses) as students and instructors. Workshop sessions included the demonstration of various teaching strategies and an analysis of a variety of curriculum materials, most of which were distributed to participants free-of-charge.

Among the highlights of the institute were the several field experiences in which the teachers participated. These included a police ride-along with a Cincinnati police officer on a regular evening tour of duty, a one-day visit to Federal District Court to witness *United States* v. *Angelotta*, and tours of the Lebanon State Correctional Institute and the Cincinnati Police Division headquarters.

As a culminating activity, each participant was asked to work in a small group to prepare a three-to-five week series of lessons dealing with one of the topics presented in the institute. Each unit, containing a wide variety of teaching strategies, was prepared for a specific grade level (i.e., K-2, 3-4, 5-6, 7-9, 10-12), duplicated, and made available to institute participants.

At the conclusion of the 1975 Summer Institute, all participants were given an evaluation instrument designed to ascertain their feelings with regard to a number of program components. Utilizing a revised form of the evaluation instrument administered at the conclusion of both the 1973 and 1974 Summer Institutes conducted by the Center, participants were asked to provide both quantitative and qualitative responses. All responses were anonymous. A summary of the quantitative data obtained from participants follows.

Section One of the questionnaire sought to ascertain participant assessment of the training procedures, materials and exercises used in the 1975 Summer Institute. On a five-point scale, teacher participants were asked to rate each of the following items, with 1=lowest rating and 5=highest rating.

1. Content: Gave New Ways of Viewing Problems (4-5).....93%
2. Content: Spoke to Important Concerns (4-5).....91%
3. Practicality: Can Be Used Under Existing Conditions (4-5).86%
4. Interest: Retained Interest (4-5).....95%
5. Usefulness: Very Useful (4-5).....93%
6. Potential: High Potential for Instructional Improvement (4-5).....86%
7. Value: Of Great Value Compared to Other Education Courses (4-5).....95%
8. Worth: Very Worthwhile as a Total Learning Experience (4-5).....95%

The above data is indicative of how well the 1975 Summer Institute was received by participating teachers. It

is interesting to note that these results were achieved despite a significant reduction in expenditure and with a significantly redesigned format from that of the two previous years.

Section Two of the questionnaire sought participant perceptions of the effect the program had upon their feelings regarding various aspects of law and the criminal justice system. Participants were asked to indicate whether they had "increased confidence," "no change," or "decreased confidence" as a result of their participation in the 1975 Summer Institute.

More than 60% of the participating teachers indicated their confidence had increased with respect to six of the eleven topics (i.e., One's Individual Rights–83%; One's Responsibilities Under Law–76%; Law–71%; Law Enforcement–71%; Law Profession–69%; and, Police Officer–62%.)

In addition, 45% of the teachers indicated increased confidence in Judges and 43% in the Courts. The only topic of which more than four of ten teachers indicated a decrease in confidence was that of the penal system (60%).

Section Three of the questionnaire asked participants to assess the value of the four field experiences. Each participant was asked to indicate whether the experience was "extremely useful," "quite useful," "somewhat useful," or "not useful at all."

Participants felt the most useful of the field experiences (95% indicated it was "extremely useful") was the visit to Federal District Court. An entire day was spent witnessing the first of a two-day trial in the case of *United States* v. *Angelotta*. The defendant, an 18-year-old university freshman, was accused of conspiring to sell an amount of cocaine to federal undercover agents. The drama was heightened by the realization that Ms. Angelotta was the daughter of a Cleveland Judge and represented by two of the top attorneys in the state.

The police ride-along experience afforded each participant a unique view of how the police officer operates on a day-to-day basis. Riding on a regular evening tour of duty with a Cincinnati police officer, participants were able to experience first-hand the routine, emotions, etc. that comprise police work.

The tour of Lebanon State Prison and the Cincinnati Police Division headquarters represented different types of experiences. Lacking the drama and emotional involvement, they were not as highly regarded as the trial experience and police ride-along. However, a majority of the participants still indicated they were useful experiences.

Section Four of the questionnaire sought participant perceptions regarding the effect the Summer Institute program had upon their understanding of each of the various components of the curriculum. Participants were asked to indicate whether their understanding had "improved greatly," "improved somewhat," or "had not changed."

TABLE 1.

Participant Perceptions of the effect on the 1975 Summer Institute Upon Various Curriculum Topics and/or Concepts

Topic and/or Concept	Improved Greatly	Improved Somewhat	Did Not Change
I. Week One: Introduction to Law and the Legal System			
A. Nature of Law	83%	14%	2%
B. Due Process	83%	17%	0%
C. Torts	83%	17%	0%
D. Judicial Relief	56%	44%	0%
E. Judicial Remedies	45%	52%	2%
F. Civil Procedure	68%	32%	0%
II. Week Two: Analysis of the Criminal Justice System			
A. Functions of Courts.	51%	42%	7%
B. Nature of Crime	62%	36%	2%
C. Law Enforcement	52%	48%	0%
D. Role of the Police	38%	55%	7%
E. Court Procedures	81%	19%	0%
F. Problems Confronting the Courts	83%	17%	0%
G. Rights of the Accused	76%	21%	2%
H. Nature of Prisons	62%	36%	2%
I. Alternatives to Incarceration	71%	29%	0%
III. Week Three: Justice in America			
A. Adversary System	71%	29%	0%
B. Plea Bargaining	86%	14%	0%
C. Right to Counsel	61%	30%	9%
D. Nature of Juvenile Delinquency	40%	46%	4%
E. Rights of the Accused Juvenile	55%	36%	9%
F. Free Press & Fair Trial	65%	33%	2%
G. Search and Seizure	55%	38%	7%
IV. Week Four: First Amendment Freedoms			
A. Freedom of the Press	78%	20%	2%
B. Freedom of Speech	79%	21%	0%
C. Freedom of Religion.	79%	19%	2%
D. Right to Petition and Peaceably Assemble.	57%	36%	7%
E. Restrictions Upon the First Amendment	83%	14%	3%

Section Five of the questionnaire attempted to obtain quantitative and qualitative assessments of the individual faculty members. While the full results will not be presented here, it is of some value to note that eight-two

percent (82%) of the faculty were given a 4.0 or better rating on a five-point scale (i.e., 5=highest rating) by participants who were asked to rate individual faculty members of the "quality of subject matter presented." Writen remarks about each of the faculty members further attested to the high quality of the institute staff.

The last section of the questionnaire asked participants to rate, again on a five-point scale, 1=low, 5=high, six particular aspects of the institute program. Their responses are contained in Table 2.

TABLE 2.
Participant Assessment of Quality of Program Components

Program Component	Of Little Value (1-2)	Neutral (3)	Of Great Value (4-5)
1. Value of Distributed Materials.....	0%	2%	98%
2. Value of Assigned Readings.....	5%	12%	83%
3. Value of Films/ Filmstrips Shown	0%	13%	87%
4. Value of Week-Long Substantive Presentations by same persons.....	2%	7%	91%
5. Value of One-day Substantive Presentations by various persons.....	2%	7%	91%
6. Value of Field Experiences	2%	7%	91%

The qualitative assessments provided by the participants echoed the strongly positive judgements reflected in the quantitative data previously described. These, in addition to similarly positive evaluations by participating faculty, combine to attest to the high quality of the 1975 Summer Institute.

The Center is planning to offer its Fourth Annual Summer Institute during June-July, 1976. Further details will be provided in a future issue of *Focus on Law.*

CENTER PROGRAMS

LAW RESOURCE PERSONNEL PROGRAM

For the third consecutive year, the Center for Law-Related Education will offer its Law Resource Personnel Program to Cincinnati-Hamilton County teachers and administrators. Utilizing a pool of some 250 attorneys, judges, law enforcement officials, corrections officials and ex-offenders, the Center is able to offer the following services free-of-charge.

SCHOOL CLASSROOM VISITATIONS

Providing the opportunity for students to meet first-hand an attorney, police officer, F.B.I. Agent, corrections official or ex-convict and discuss areas of common interest is a special feature of the Center's Law Resource Personnel Program.

Personnel are available to visit school classrooms to discuss particular legal questions and/or problems with students. Among the various topics that could be discussed are:

Crime
Criminal Law
Law Enforcement
The Courts/Trial Procedure
Corrections Programs
Laws Involving Minors
Juvenile Court/Procedures
Student Rights and Responsibilities
Environmental Law
Anti-Trust Laws
Equality and the Law
First Amendment Freedoms
The American Penal System
Alternatives to Incarceration
Labor Law
Nature of Law
Law as a Career
Law Enforcement as a Career
Legal Assistance
Land-Tenant Law
Consumer Law
Torts
Contracts
Property
How Laws Are Made
Family Law (e.g., divorce, custody, etc.)

FIELD TRIP EXPERIENCES

Witnessing an actual trial in progress and talking with the judge involved in the case are popular and meaningful experiences for school children. The Center is able to aid Cincinnati-Hamilton County educators in arranging and conducting field trips to various institutions within the criminal justice system, including the Municipal Courts, Courts of Common Pleas, and the Federal Courts, as well as

the Cincinnati Police Division Headquarters. With adequate notice, the Center has been able, on many occasions, to arrange for students to meet and talk with a judge as part of their courtroom experience.

CONSULTATION

Both Center staff and law resource personnel are available to assist teachers regarding a particular legal question or topic that is being, or will be, taught in the classroom. Assistance is available for substantive law questions as well as for educational methodology and materials.

During the period from September, 1974 to June, 1975, the Center arranged for nearly 200 presentations and field trips as requested by approximately eighty-three different teachers from fifty-three different schools in Hamilton County. Based on class size figures submitted to the Center by participating educators, approximately 9,500 school children and 375 other persons (e.g., teachers, parents, undergraduate students) were involved. In addition, some 1,500 Hamilton County school children visited the the Municipal Courts, Courts of Common Pleas, or the Federal Courts, and approximately 250 school children toured the Cincinnati Police Division Headquarters.

Of the speaking engagements arranged for by the Center, eighty-eight different persons were involved. This included forty-nine attorneys, fifteen law enforcement officers, five judges, four offenders/ex-offenders, three probation officers, two corrections officials, two law school professors and eight others (e.g., mayor, state legislator, etc.)

In its previous issue of *Focus on Law*, the Center recognized those who had participated in this program from January to March, 1975. In this issue, the Center wishes to recognize those who were involved in the Law Resource Personnel Program during April to June, 1975. They were:

April, 1975

On April 1, Mr. Phillip Muldoon, Deputy Director of Probations, addressed Mr. Joe Voegel's tenth, eleventh and twelfth-grade classes at Aiken School on "Corrections–Alternatives to Incarceration."

Mr. Leo Hildebrandt, Attorney-at-Law, spoke on April 3, to Mr. Mel Brown's class of forty high school students on the subject "Juvenile Court Philosophy–Juvenile vs. Adult," at Princeton High School.

On April 8, Dr. David Naylor, Executive Director of the Center, conducted a mock trial for the twelfth-grade class of Mr. Robert Moore, Live Oaks Career Development Center.

On April 11, Dr. David Naylor spoke to the tenth through twelfth-grade students of Mr. Mel Brown, Princeton High School, on the subject "The Nature of Crime."

Ohio State Highway Patrolman, Sgt. Robert Heck, spoke to four separate classes at Sycamore High School on April 14, presenting the subject "Different Levels of Police Jurisdiction," as requested by the teacher, Mr. Al Risenberg.

A Hamilton County Municipal Court tour was arranged for the eight-grade class of St. Barth School and their teacher, Mr Connell, on April 15.

On April 17 a special law day program was arran approximately 200 students of North College Hill High Sc the request of social studies teacher Ms. Joan Fiehan. The began with a presentation by Probation Officer Mr. Kenn and Attorney, Mr. Martin Pinales, on the topic "Juvenil Procedure and Rights." Following this presentation, Mr. Reisenfeld, Attorney-at-Law, spoke to the students on "C Protection." Reconvening after lunch, the assembly body w a mock trial conducted by Mr. Michael Wiethe, Attorney which utilized students as participants in the trial.

Special Agent Donald Norie of the Federal Bureau of gation visited Sycamore High School on April 17, and spok four separate classes of Mr. Al Riesenberg on the topic, "The

At the request of Mr. George Werden, Mt. Health School, Patrolman Roland Harrison of the Cincinnati Division, spoke on April 17 to two separate classes on the "The Police Officer: His Views on the Courts, Lawye Criminals."

On April 17, the fifth and sixth-grade students of M Gardette, Rothenberg Elementary School, heard a presenta Dr. David Naylor on "An Overview of Criminal Justice Syste

Captain Robert Bradford of the Sheriff's Dep addressed four separate classes comprised of ninth and ten students, at Sycamore High School on April 18. His topic w Sheriff's Department," as requested by teacher, Mr. Al Ris

On April 18, the sixth-grade class of Ms. Cynthia Lan Elementary School, participated in a Hamilton County M Court tour arranged by the Center.

The Hamilton County Municipal Court was visited on A by Mr. Charles Payne's twelfth-grade class of Lockland Seni School.

In cooperation with Professor John Flanagan, Unive Cincinnati, College of Law, the class of Mr. Richard Withrow High School, served on April 22 as jurors in a mo conducted by law students.

At the request of principal, Roger Effron, and teache Rouff of Crest Hills Jr. High School, the Center arranged fo seventh-eight and ninth-grade students to visit the Hamilton Municipal Court.

Mrs. Lucille Cottongim, a Mt. Airy School elementary visited the Hamilton County Municipal Court with her four students on April 23.

"Urban Politics and Justice," was the topic discu Councilman David Mann with Ms. Ruth Gardette's fif sixth-grade students at Rothenberg Elementary School on A

In-mates from Lebanon Correctional Institute present views on "Prison Life: A View From the Inside," to student George Werden's Criminology Class at Mt. Health High Sc April 25.

At the request of Professor John Flanagan, Unive Cincinnati, College of Law, a group of students from Eld School participated as jurors in a mock trial conducted by Students on April 29.

On April 29, Mr. Stephen Cohen, Attorney-at-Law, s the twelfth-grade class of Ms. Carol Sojka, Indian Hill High on "Contracts and the Law."

One hundred and fifty seventh and eighth-grade stud Crest Hills Junior High School viewed the film "The Crime which Mr. Martin Pinales, Attorney-at-Law, provided the s with an in-depth view of the film's subject. The film and di were presented to three consecutive classes, at the request principal, Mr. Roger Effron, on April 29.

On April 30, the eight-grade class of Mr. Robert Sellman Junior High School, heard views on "Pranks–H

Juvenile is Dealt With," as given by Mr. Perry Ancona, Attorney-at-Law, and Chief Phil Hudson, Cincinnati Police Division.

May, 1975

Mr. Dan Connell, a teacher at St. Bartholomew School, accompanied forty eighth-grade students to the Hamilton County Municipal Court on May 1.

The Honorable George Edwards, Judge of the Sixth Circuit United States Court of Appeals, spoke on the subject "Equal Justice" to students in the School of Law, University of Cincinnati, on May 2 at the request of Mr. Dusty Redmond, a second year law student, as part of the national observance of "Law Day."

On May 2, the fifth and sixth-grade classes of Ms. Ruth Gardette, Rothenberg Elementary School, heard views on "Police–Why and Who," as presented by Patrolmen Roland Harrison and Wendell Young of the Cincinnati Police Division.

Dr. David Naylor spoke on "Teacher Rights and Responsibilities: An Analysis," to student teachers in the College of Education, University of Cincinnati, on May 5 in a program arranged by Dr. Ronald Sterling.

At the request of Professor John Flanagan, University of Cincinnati, College of Law, a group of students from Princeton High School participated as jurors in a mock trial conducted by the law students on May 6.

On May 6, Mr. William Ennis, Attorney-at-Law, and Mr. Henry Kasson, Attorney-at-Law, presented the topic "Student/Teacher Rights and Responsibilities," to sixty elementary teachers at Greener Elementary School as requested by the school principal, Mrs. Aston.

A Hamilton County Municipal Court tour was arranged for forty twelfth-grade students of Live Oaks Vocational School and their teacher, Mr. John Fierro, on May 6.

On May 6, Mr. William Hamilton, Executive Director of the Charter Committee of Greater Cincinnati, appeared before the Urban Studies class of Messrs. Ron Holtman and James Martin, Colerain High School, and spoke on "Political Corruption."

Three hundred seventh-grade students at White Oak Jr. High School heard Patrolman Roland Harrison, Cincinnati Police Division, speak on "Views of a Policeman," on May 7, as requested by teacher Mr. Robert Keith.

At the request of Mr. Ronald Sterling, Executive Director, Dr. David Naylor spoke to University of Cincinnati graduate students in elementary education on the topic "Teaching About Law in the Elementary School: Why and How," on May 7.

On May 8, Ms. Shirley Sibert's elementary students at Columbian School heard a presentation by Councilman David Mann on "Citizen Rights and Responsibilities."

On May 9, Patrolmen Roland Harrison and Wendell Young, of the Cincinnati Police Division, visited with the class of Ms. Ruth Gardette, Rothenberg Elementary School, and spoke on "How Police Deal With Youth."

Messrs. Thomas Otten, Edward Meinkhaus and Donald Buchanan, Elder High School, requested assistance of the Center for an extensive Law Day program presented May 9. The total program involved 1,600 students who heard "An Analysis of the Police Division," as presented by Captain Lawrence Whalen, Cincinnati Police Division; "Juvenile Court and Procedures," given by Probation Officers Mr. Michael Hoobler and Mr. Don Schmerber; "Rights of the Accused," presented by Mr. Bernard Gilday, Jr., Attorney-at-Law; and "Recruitment and Training of a Police Officer," by Patrolman Ron Kissinger and Sgt. Robin Hochstrasser, Cincinnati Police Division.

On May 9, the twelfth-grade class of Ms. Carol Sojka, Indian Hill High School, was visited by Mr. John Cobey, Attorney-at-Law, who spoke on "Landlord-Tenant Laws."

Dr. Mary Friend Adams of the College of Education, University of Cincinnati, invited Dr. David Naylor to speak before her undergraduate class on "Using Games and Simulations to Teach About Law and the Criminal Justice System," on May 12.

On May 13, a Hamilton County Municipal Court visit was arranged for Ms. Mary Gendernalick, Crest Hills Jr. High School, and her thirty seventh-grade students.

"Trial Procedures and Preliminary Hearing," was the topic presented by The Honorable Peter Outcalt, Municipal Court Judge, to one hundred twelfth-grade students at Mt. Healthy High School on May 13, as requested by teacher, Mr. James Fiehrer.

The twelfth-grade students of Lockland Senior High School visited the Hamilton County Municipal Court and Federal Court on May 14, with their teacher Mr. Charles Payne.

On May 14, thirty-seven seventh-grade students of Ms. Joanne Moore, St. James School, toured the Cincinnati Police Division, and visited the Hamilton County Municipal Court.

Mr. Mel Brown, Princeton High School, arranged for his students to visit the Hamilton County Municipal Court on May 15.

On May 16, the Center arranged for the sixth-grade class of Ms. Mary Jane Koepfle, Struble Elementary School, to tour the Cincinnati Police Division.

Arrangements were made for a tour of the Cincinnati Police Division on May 16, by the seventh-grade class of Ms. Mary Gendernalik, Crest Hills Jr. High School.

Attorneys-at-Law, Mr. Robert Liebman and Mr. Timothy Hickey, participated in a program involving six hundred seventh and eighth-grade Mt. Healthy North Jr. High School students on May 16, and spoke on "Juvenile Law," at the request of teacher, Ms. Betty Nofsinger.

Mr. Fred Hoefle, Attorney-at-Law, appeared before one hundred and fifty Mt. Healthy High School students on May 19, and presented his views on "Criminal Law," as requested by teacher, Mr. Larry Niederhelm.

A visit to both the Hamilton County Municipal Courts and the Common Pleas Courts was made on May 20 by Mr. Robert Moore's Live Oaks Joint Vocational School students.

On May 20, Patrolmen Roland Harrison and Wendell Young, Cincinnati Police Division, spoke on "The Role of the Police Officer," to the students of Mr. Mel Brown, Princeton High School.

On May 22, the subject "Vice" was discussed by Lt. Harry Bode, of the Hamilton County Sheriff's Department–Patrol Division, with the class of Mr. Cliff Doerflein, Colerain Senior High School.

At the request of Mr. Michael Shaw of Western Hills High School, Mr. Herbert Bass, Attorney-at-Law, analyzed "First Amendment Rights," in a program for tenth through twelfth-grade students on May 22.

Dr. David Naylor spoke to students at Princeton High School on May 22, on "An Analysis of Major Theories Regarding the Basic Nature of Man and Their Implication for Society," as requested by teacher, Mr. Paul Merrill.

The Center arranged for a tour of the Hamilton County Municipal Courts and the Cincinnati Police Division on May 22, for the fourth-grade students of Ms. Charlene Stein and Ms. Carter Payne, Washington Park School.

On May 23, Probation Officer, Mr. Dale McCoy, presented his views on "The Role of the Probation Officer," to the fifth and sixth-grade students of Ms. Ruth Gardette, Rothenberg Elementary School.

One hundred and fifty students of Mr. Gregory Kruthaupt, Eastern Hills Jr. High School heard Patrolman Wendell Young, Cincinnati Police Division, speak on the topic "The Role of the Policeman," on May 23.

Mr. Stephen Cohen, Attorney-at-Law, discussed "Torts–The Obligations People Have," with the fourth-grade class of Ms. Carter Payne, Washington Park School, on May 27.

On May 27, Mr. Merlyn Shiverdecker, Assistant Hamilton County Prosecutor, spoke to the class of Mr. Mel Brown, Princeton

High School, on the topic "The Role of the Prosecutor."

"Does Rehabilitation Work?" was the topic presented to Mr. Paul Merrill's Princeton High School Sociology class by Mr. Philip Muldoon, Deputy Director of Probation and Rehabilitation, on May 29.

As part of a special law enforcement program instituted by Mr. John Breen at Pleasant Run Jr. High School, Patrolmen Roland Harrison and Wendell Young, Cincinnati Police Division, presented their views on "The Role of the Police Officer," on May 29.

On May 30, the sixth-grade class of Mr. Benny Miles, Garfield Elementary School, heard "Rights of the Accused," as presented by Attorney, Mr. Barry Isaacs, of the Hamilton County Public Defender's Office.

June 1975

On June 2, an ex-offender, Alan McGrory, spoke to the Sociology Class of Mr. Paul Merrill, Princeton High School, on the topic "Does Rehabilitation Work, or is Punitive Confinement the Only Recourse?"

A film, "Still Living," followed by a talk on "Women's Rights," by Ms. Kathy Rotroff, University of Cincinnati, was presented to the Senior Seminar students of Mr. Maurice Delk, St. Bernard High School, on June 2.

On June 3, students in the special law enforcement program instituted by Mr. John Breen, Pleasant Run Jr. High School, heard the Honorable William Fellerhoff, Hamilton County Municipal Court Judge, speak on the subject "The Role of the Judge."

On June 4, students in the Pleasant Run Jr. High School special program were visited by ex-offender Mr. James (Slim) Liggins, Seventh Step Foundation, who spoke on "Prison Life."

The Center's Board of Directors and staff wish to express their sincere and continuing appreciation to those judges, lawyers, law enforcement officials, corrections officials, ex-offenders, and law professors who have so generously donated their services to this important Center program.

The Center extends special thanks to Mr. W. Scott Brown, who arranged for classroom visitations to the Federal Courts, Mr. Philip Muldoon, who performed the same function for Municipal Courts, and to Mr. Barry Ross, who arranged for classroom visitations by Hamilton County Municipal Court Judges.

The Center will continue to offer this service to all Cincinnati-Hamilton County elementary and secondary school educators during the 1975-76 school year.

Procedures to Use Law Resource Personnel Program

A teacher or school administrator may make use of the Center's Resource Program by following the procedures outlined below:

- –Call the Center at 475-3982 between 8:00 a.m. and 5:00 p.m. weekdays.
- –State the kind of service you would like and the area of law in which you are involved.
- –The Center's staff, whenever possible, will attempt to complete the program arrangements within three days of your request.
- –Please plan at least two to three weeks prior to the date you would like the program to be conducted.

RECENT SUPREME COURT DECISIONS

Establishment of Religion: *Meek et al. v. P. Henger, Etc., et al. [May 19, 1975]*

In 1972, Pennsylvania's Legislature added Acts 194 and 195 to that State's Public School Code. Act 194 authorized the Commonwealth to provide "auxiliary services" (e.g., counseling, testing, and psychological services, speech and hearing therapy, etc.) to all children enrolled in nonpublic elementary and secondary schools meeting Pennsylvania's compulsory attendance requirements.

Act 195 authorized the State Secretary of Education to lend textbooks without charge to children attending nonpublic elementary and secondary schools that meet that State's compulsory education requirements. The books that could be lent are limited to those "which are acceptable for use in any public, elementary, or secondary school of the Commonwealth."

Act 195 also authorized the Secretary of Education to lend directly to nonpublic schools "instructional materials and equipment useful to the education" of nonpublic school children (e.g., periodicals, photographs, maps, charts, sound recordings, projection equipment, laboratory equipment, etc.).

On February 7, 1973, three individuals and four organizations filed a complaint in Federal District Court challenging the constitutionality of Act 194 and Act 195, and requested an injunction prohibiting the expenditure of any funds under either statute. The three-judge Court unanimously upheld the constitutionality of the textbook loan program authorized by Act 195. By divided vote, it also upheld the constitutionality of Act 194 which provided for auxiliary services.

The Court held unconstitutional that portion of Act 195 which authorized the expenditure of State funds for the purchase of instructional equipment for loan to nonpublic schools, but only to the extent that the provision allowed the loan of equipment "which from its nature can

be diverted to religious purposes" (e.g., projection and recording equipment). By divided vote, the Court upheld this provision of Act 195 insofar as it authorizes the loan of instructional equipment that cannot be readily diverted to religious uses.

Since with only one exception, the complaintants were denied inunctive relief, they appealed directly to the United States Supreme Court. In a decision that featured a series of in part concurring and dissenting opinions, the Court reversed the District Court judgment as to Act 194 and all provisions of Act 195 with the exception of Act 195's textbook provisions which it affirmed.

In writing the majority opinion, Justice Stewart noted that the District Court had applied the three-part test as stated by the Supreme Court in other recent Establishment Clause cases: (1) the statute must have a secular legislative purpose; (2) it must have a "primary effect" that neither advances or inhibits religion; and, (3) the statute and its administration must avoid excessive government entanglement with religion. The Court emphasized "that the tests must not be viewed as setting the precise limits. . . but serve only as guidelines with which to identify instances in which the objectives of the Establishment Clause have been impaired."

The Court affirmed that "no tax in any amount, large or small, can be levied to support any religious activities or institutions, whether they may be called, or whatever form they may adopt to teach or practice religion." However, it also stated that not all legislative programs that provide indirect or incidental benefit to a religious institution are prohibited by the Constitution. Hence, "the problem, like many problems in constitutional law, is one of degree."

The Court majority held that the textbook loan provisions of Act 195 were constitutionally indistinguishable from the New York textbook loan program previously upheld by the Court. It would extend to all school children the State's well established policy of lending textbooks free of charge to elementary or secondary students. Act 195 provides that textbooks are to be lent *directly* to the student, not to the nonpublic school itself. It limits the books that may be lent to "textbooks which are acceptable for use in any public, elementary, or secondary school of the Commonwealth." By merely making "available to all children the benefits of a general program to lend school books free of charge," those provisions of Act 195 "do not offend the constitutional prohibition against laws 'respecting an establishment of religion.'"

But, Act 195 also authorizes the loan of instructional material and equipment *directly* to qualifying nonpublic elementary and secondary schools in the Commonwealth. Here the Court concluded, the primary beneficiaries are "nonpublic schools with a predominant sectarian character," and "the massive aid provided the church-related nonpublic schools of Pennsylvania by Act 195 is neither indirect nor incidental." Such substantial aid, the Court reasoned, "necessarily results in aid to the sectarian school enterprise as a whole," For, 'when it flows to an institution in which religion is so pervasive that a substantial portion of its functions are subsumed in the religious mission,' State aid has the impermissible primary effect of advancing religion."

Since, in the opinion of the Court, the direct loan of instructional material and equipment to qualifying nonpublic elementary and secondary schools in the state "inescapably results in the direct and substantial advancement of religious activity, [it] thus constitutes an impermissible establishment of religion."

Act 194 authorizes State aid to supply professional staff, as well as supportive materials, equipment, and personnel, to the nonpublic schools of the Commonwealth. The Court held that statute violative of the constitutional prohibition against laws "respecting an establishment of religion."

The Court majority reasoned that the First Amendment requires that a State must be certain "that subsidized teachers do not inculcate religion." While the likelihood of inadvertent fostering of religion may be lessened for auxiliary service teachers, the Court observed "a teacher remains a teacher, and the danger that religious doctrine will become intertwined with secular instruction persists."

The Court commented that the mere fact teachers and counselors providing auxiliary services are employees of non-sectarian schools does not eliminate the hazard. It noted that such personnel perform their services "in schools in which education is an integral part of the dominant sectarian mission and in which an atmosphere dedicated to the advancement of religious belief is constantly maintained."

The Court, therefore, observed:

> To be certain that auxiliary teachers remain religiously neutral, as the Constitution demands, the State would have to impose limitations on the activities of auxiliary personnel and then engage in some form of continuing surveillance to insure that those restrictions were being followed.

Such a situation, in the opinion of the Court, would necessarily result in administrative entanglement to an extent impermissible under the Constitution.

The Court also noted that Act 194 would have to be reconsidered on an annual basis. This would likely lead to repeated confrontation between proponents and opponents of the auxiliary services program. The serious potential for devisive conflict over the issue of aid to religion the Court observed, "provides successive opportunities for political fragmentation and division along religious lines, one of the principal evils against which the Establishment Clause was intended to protect."

In sum, the Court majority upheld the constitutionality of the textbook loan provisions of Act 195 but held as unconstitutional that Act's other provisions (i.e., direct loan of instructional material and equipment directly

to qualifying nonpublic elementary and secondary schools). It also ruled that Act 194 (i.e., auxiliary personnel, materials and equipment) was, in effect, an unconstitutional establishment of religion.

Indicative of the division of opinion among the members of the Court are the dissenting opinions which fall in one of two categories. On the one hand is the dissent of Justice Brennan with whom Justices Marshall and Douglas joined. These three Justices agreed with the majority opinion in all but the ruling on the constitutionality of the textbook loan provision of Act 195, which the majority upheld.

In a lengthy dissent, Justice Brennan argued that the Court should have also held that provision unconstitutional. Though he recognied "that the Court was on the horns of a dilemma," he saw no pervasive differences between the ruling against the validity of the instructional materials loan provisions and the validity of the textbook loan provisions. Both, he contended, contained the same fatal flaws. Both provisions run the risk of divisive political potential. Both would necessitate detailed involvement of the State and its processes into the administration of nonpublic schools. ("[I]t is pure fantasy to treat the textbook program as a loan to students... The whole business is handled by the schools and public authorities and neither parents nor students have a say.") Both would require increasingly massive sums on an annual basis.

Justice Brennan concluded, "Act 195 is intended as a financial aid program to relieve the desperate financial plight of nonpublic, primarily parochial schools." In addition, "Act 195 extends textbook assistance only to a special class of students, children who attend nonpublic schools which are... primarily religiously oriented." The primary effect, he opined, is the unconstitutional advancement of religion.

On the other hand, are the dissents of Chief Justice Warren and of Justice Rehnquist, with which Justice White joined. These concur with the decision of the District Court. They agree with the Supreme Court majority opinion upholding the constitutionality of the textbook loan provision, but disagree with the other parts of the majority opinion.

Indicative of this school of thought are the following excerpts from the dissenting opinion written by Chief Justice Warren. Rejecting each of the majority decision arguments, Chief Justice Warren observed:

> If the consequence of the Court's holding operated only to penalize *institutions* with a religious affiliation, the result would be grevious enough—nothing in the Religion Clauses of the First Amendment permits governmental power to discriminate *against* or affirmatively stifle religion or religious activity. But this holding does more; it penalizes *children*—children who have the misfortune to have to cope with the learning process under extra-ordinary heavy physical and psychological burdens, for the most part congenital. This penalty strikes them not because of any act of theirs, but because of their parents' choice of religious exercise.

He argued that for a state to give such assistance to some of its children (those in public schools) while denying it to others *"only because* they attend a Lutheran, Catholic or other church sponsored school, does not simply tilt the Constitution against religion, it literally turns the Religion Clause on its head."

He noted that while affluent parents will be able to cope with this situation by hiring private specialists, the effect of the Court's decision will impose a heavy burden on all others. To him, this constitutes a gross violation of Fourteenth Amendment rights to equal protection. It puts all but affluent parents into a situation where they "will be forced to make a choice between theie judgment as to their children's spiritual needs and their temporal need for special remedial learning assistance."

In conclusion, Chief Justice Warren expressed his hope that, at some future date, the Court would arrive at "a more enlightening and tolerant view of the First Amendment's guarantee of free exercise of religion... and take a more realistic view that carefully limited aid to children is not a step toward establishing a State religion."

Freedom Of Expression: *Erzonznik v. Jacksonville [June 23, 1975]*

Richard Erzonznik, manager of a Jacksonville, Florida drive-in movie theater, was charged with violating a city ordinance that prohibits showing films containing nudity by a drive-in theater when its screen is visible from a public street or place. Specifically, he exhibited a motion picture, the R-rated "Class of '74," in which female buttocks and bare breasts were shown. The Trial Court upheld the ordinance as a legitimate exercise of the city's police powers and ruled it did not infringe upon Erznoznik's First Amendment rights.

On appeal before the Supreme Court, the ordinance was defended on the grounds that it had been passed: (1) to protect citizens against unwilling exposure to materials that may be offensive; (2) as an exercise of the city's police power to protect children; and (3) as a traffic regulation to prevent the distracting of passing motorists and resultant slowing of the flow of traffic and increased likelihood of accidents.

In a 6-3 decision, the United States Supreme Court held that the ordinance was unconstitutional. The Court, in an opinion by Justice Powell, observed that:

> The plain, if at times disquieting, truth is that in our pluralistic society, constantly proliferating new and ingenious forms of expression,... much that we encounter offends our esthetic, if not our political and moral, sensibilities. Nevertheless, the Constitution does not permit the government to decide which types of otherwise protected speech are sufficiently offensive to require protection for the unwilling listener or viewer.

> Rather. . . the burden normally falls upon the viewer to "avoid further bombardment of [his] sensibilities simply by averting [his] eyes."
>
> The Jacksonville ordinance discriminates among movies solely on the basis of content. Its effect is to deter drive-in theaters from showing movies containing any nudity, however innocent or even educational. This discrimination cannot be justified as a means of preventing significant intrusions on privacy.

The Court further held that if the ordinance were aimed at prohibiting youths from viewing the films, the restriction is broader than permissible. "Clearly all nudity cannot be deemed obscene even as to minors." As to justification on the basis of traffic regulation, the Court majority noted that there was no reason to think that a wide variety of scenes other than those containing nudity, "ranging from soap opera to violence, would be any less distracting to the passing motorist."

In summary, the Court concluded that the deterrent effect of this ordinance is both real and substantial for it forces drive-in theater owners to either restrict their movie offerings or construct adequate protective fencing which would be extremely expensive and even physically impractical. Therefore, the Court held the ordinance did not satisfy "the rigorous constitutional standards that apply when government attempts to regulate expression."

In a dissenting opinion, in which he was joined by Justice Rehnquist, Chief Justice Burger argued that since the film in question had been exhibited in several indoor theaters, and since the drive-in theater owner is not prohibited from exhibiting non-obscene films involving nudity so long as he effectively shields the screen from public view, it is "absurd to suggest that the ordinance operates to suppress expression of ideas." Hence, First Amendment issues in this case are at best trivial.

On the other hand, Justice Warren argued, while "there could be a play performed in a theater by nude actors involving genuine communication of ideas, the same conduct in a public park or street could be prosecuted under an ordinance prohibiting indecent exposure." Furthermore, he noted that a nudist colony cannot be lawfully set up in places established for the public generally.

> Whether such regulation is justified as necessary to protect public mores or simply to insure the undistracted enjoyment of open areas by the greatest number of people—or for traffic safety—its rationale applies. . . to giant displays which through technology are capable of revealing and emphasizing the most intimate details of human anatomy.

Consequently, Chief Justice Warren concluded "by conveniently ignoring these facts and deciding the case on the basis of absolutes the Court adds nothing to First Amendment analysis and sacrifices legitimate state interests."

Rights Of The Accused: *State of Oregon v. Hass [March 19, 1975]*

In August, 1972, bicycles were taken from the residential garages in Klamath Falls, Oregon. On the day of the thefts, an Oregon State Police Officer traced an automobile license number to the place where William Robert Hass lived. Hass was arrested and given the *Miranda* warnings. When asked about the theft, Hass admitted he had taken two bicycles but had returned one of them and left the other in the brush. Hass and the police officer departed in a patrol car for the site. On the way, Hass opined that he "was in a lot of trouble" and would like to telephone an attorney. The police officer replied that Hass could telephone the lawyer "as soon as we get to the office." Thereafter, Hass pointed out a place in the brush where the bicycle was found.

At the trial, the Court ruled that statements made by Hass after he said he wanted to see an attorney and his identification of the bicycle's location were not admissible. However, when Hass gave testimony that contradicted that of the police officer, the latter was permitted to testify to the previously barred information to rebut Hass' testimony. The Court then advised the jury that the police officer's rebuttal testimony could not be used as proof of guilt but considered only as it pertained to the credibility of the defendant as a witness when he testified on the witness stand.

The jury returned a verdict of guilty. Hass received a sentence of two years probation and a $250 fine. On appeal, however, both the Oregon Court of Appeals and the Supreme Court of Oregon overturned the decision of the trial court on the ground that Hass' statements were improperly used to impeach his testimony.

In a 6-2 decision written by Justice Blackmun, the Supreme Court of the United States disagreed and upheld Hass' conviction. The Court majority argued that evidence inadmissible under *Miranda* in the prosecution's case in chief is not barred for all purposes. Since "the impeaching material would provide valuable aid to the jury in assessing the defendant's credibility" it should be allowed in this case. The court reasoned:

> [T]he shield provided by *Miranda* is not to be perverted to a license to testify inconsistently, or even perjourously, free from the risk of confrontation with prior inconsistent utterances.
>
> We are, after all, always engaged in a search for truth in a criminal case so long as the search is surrounded with safeguards provided by our Constitution. . . [I]nadmissibility would pervert the constitutional right to falsify free from the embarrassment of impeachment evidence from the defendant's own mouth.

In a dissent with whom Justice Marshall joined, Justice Brennan contended that under such a holding:

> Once the warnings are given, police have almost no incentive for following *Miranda's* requirement that "[i]f the individual states he wants an attorney, the

interrogation must cease until an attorney is present." If the requirement is followed there will almost surely be no statement since the attorney will advise the accused to remain silent. If, however, the required is disobeyed, the police may obtain a statement which can be used for impeachment if the accused has the temerity to testify in his own defense. Thus, after today's decision. . . police interrogation will doubtless now be vigorously pressed to obtain statements before an attorney arrives. I am unwilling to join this fundamental erosion of Fifth and Sixth Amendment rights and therefore dissent.

Rights Of The Accused: *United States v. Hale [June 23, 1975]*

William G. Hale was charged with being one of five men who attacked and robbed another person. Identifed by the victim, Hale was arrested, taken to the police station, and advised of his right to remain silent. Though he had a large sum of money on his person, Hale refused to answer questions by the police.

At his trial, Hale took the witness stand in his own defense and testified as to the source of the money and his location at the time of the robbery. Attempting to disprove his testimony, the prosecution, under cross-examination, caused Hale to admit he had not offered to the police at the time of his arrest the explanation to which he had just testified.

The Trial Court ruled that Hale's silence could not be used against him and instructed the jury to disregard it. Nevertheless, Hale was found guilty. Hale appealed, arguing that inquiry into his prior silence had prejudiced his defense and violated his constitutional right to remain silent. Thus, he contended he was entitled to a new trial.

In a unanimous decision delivered by Justice Marshall, with which four other Justices joined (there were four concurring opinions), the Supreme Court held that although "prior inconsistent statements may be used to impeach the credibility of a witness," proof of silence may not. There are many reasons why a defendant may choose to remain silent. "The danger is that the jury is likely to assign much more weight to the defendant's previous silence than is warrented." Thus, the Court held the Trial Court was in error for permitting cross-examination concerning Hale's silence during police interrogation and concluded that Hale was entitled to a new trial.

In a concurring opinion, Justice Douglas opined, "given the existence of *Miranda* due process is violated when the prosecution calls attention to the silence of the accused at the time of arrest."

Rights Of The Accused: *Brown v. Illinois [June 26, 1975]*

Twenty-three-year-old Richard Brown was arrested and his person and premises were subjected to search both without "probable" cause and without a warrant. Taken to police headquarters, he was advised of his *Miranda* rights. Under questioning, however, he made two incriminating statements. He was subsequently indicted for murder.

Prior to his trial, Brown moved to suppress the two statements he had made. He alleged that his arrest and detention had been illegal and that the statements were taken from him in violation of his constitutional rights. The motion was denied. The state introduced evidence of both statements at his trial and Brown was found guilty of murder. He was sentenced to imprisonment for not less than 15 years nor more than 30 years.

On appeal, the Supreme Court of Illinois affirmed the conviction. Though the Court concluded the arrest was unlawful, it held that:

> The giving of the *Miranda* warnings, in the first instance by the police officer and in the second by the Assistant State's Attorney, served to break the causal connection between the illegal arrest and the giving of the statements, and that defendant's act in making the statements was "sufficiently an act of free will to purge primary taint of the unlawful invasion."

The Supreme Court reversed in an unanimous decision with three concurring opinions. In the opinion of the Court written by Justice Blackmun, the Court noted that the issue was basically whether the statements were to be excluded as the fruit of the illegal arrest, or were admissible because the giving of *Miranda* warnings sufficiently weakened the taint of the arrest.

Following a discussion of Fourth and Fifth Amendment rights and their relationship one to the other, the Court held that *Miranda* warnings, by themselves, were insufficient to overcome the taint of an unconstitutional arrest. The Court opined that to rule otherwise would encourage Fourth Amendment violation, reducing the constitutional guarantee against unlawful searches and seizures to "a form of words."

The court rejected the doctrine that "the *Miranda* warnings, *alone* and *per se*, [can] always make the act sufficiently a product of free will to break, for Fourth Amendment purposes, the causal connection between the illegality and the confession. They cannot assure in every case that the Fourth Amendment has not been unduly exploited."

It should be noted, however, the the Court refused to adopt any alternative rule, holding instead that the question of whether a confession is the product of free will must be answered on the facts of each case. In so ruling, it served notice that the holding was a limited one.

THE MOOT COURT:

USING A SUPREME COURT DECISION IN THE CLASSROOM

One of the primary purposes of law-related education is that of encouraging students to analyze the issues in value conflicts. Case studies, especially those which reach the level of the Supreme Court of the United States, are important vehicles for that purpose. As noted law-related education expert, Dr. Isidore Starr, has suggested, the conflict in such cases is "usually the conflict between a good value and a good value," for two tenable value positions are at issue. Thus, the Supreme Court case can be a particularly effective way for the student and the teacher to explore societal conflict and the great difficulties involved in dealing with competing values within a society.

The moot court provides an excellent teaching strategy for dealing with value conflict and acquainting students with the judiciary's difficult task of deciding such issues. In the mock trial, students assume the various roles of judge, prosecutor, defense attorney, jury, witnesses, and others to simulate an actual trial on the facts of the case. In the moot court, students role play the position of appellate judges and grapple with the constitutional issues involved in the case. What follow are two ways in which a moot court exercise could be handled and a case that can be used for that purpose.

OPTION I

One method of involving students in a moot court simulation is for the teacher to first divide the class into several appellate courts, providing each with a copy of the Bill of Rights and the Fourteenth Amendment. The facts of the case are given to each of the courts and each court is asked to identify the issue(s) involved in the case (i.e., what's in conflict?), and then to reach a decision regarding the issue(s) involved.

Each court is to provide a written opinion (i.e., majority, concurring, dissenting), or opinions if there is disagreement, which contains their decision and reasons for arriving at that decision. Appropriate spokesmen for each court share their opinion(s) with the class. Both the decision and the reasons given in support of the opinion(s) written by the members of each of the courts are listed on the chalkboard. When done with each of the several courts, the various arguments and constitutional positions pertaining to the issue(s) in question can be more clearly understood.

Following the procedure outlined above, the teacher may then reveal the actual decision of the Supreme Court and the reasoning the court used in arriving at that decision. Discussion should follow, including attention to the possible significance of the court's decision. This process should prove valuable in clarifying the value conflicts at issue and enlightening as to the role of the judiciary in the American criminal justice system.

OPTION II

Adhering to much the same format as that described in Option I, the class is divided into several appellate courts. The facts of the case are distributed to each of the several courts with instructions to identify the issue(s) involved. At this point, once the conflict to be addressed is clarified, the teacher may wish to distribute abridged copies of the majority opinion and a dissenting opinion, identified only as "Opinion for the Defendant" and "Opinion for the State." The several courts are asked to analyze each opinion, consider the arguments presented, and decide upon the one with which they are in agreement.

Once each court has reached its decision, a class discussion should follow to clarify the major points presented in the two opinions. A poll of how each court has decided the case can be conducted, the results placed upon the chalkboard as follows:

Decision	Court 1	Court 2	Court 3	Court 4	Total
For the Defendant					
For the State					

The opinion which is the actual Supreme Court majority opinion is presented, followed by a discussion of that decision, including the possible significance of that decision.

THE CASE:

The Right of Counsel: Faretta v. California (June 30, 1975)
Facts of the Case

Anthony Faretta was charged with grand theft. At his arraignment in a Los Angeles County Court in California, the Judge appointed a public defender to represent Faretta. Prior to the trial, Faretta requested that he be permitted to defend himself. Although the judge warned that Faretta was making a mistake, he granted Faretta's request to waive assistance of counsel. At the same time, however, the judge indicated that he might reverse his decision if it later appeared Faretta was unable to adequately represent himself.

Several weeks later but still prior to the trial, the judge held a hearing to inquire into Faretta's ability to conduct his own defense. When Faretta was unable to answer certain specific questions about points of law, the judge reversed his earlier position, asserting that Faretta had not made an intelligent and knowing waiver of the right to the assistance of counsel. In addition, the judge ruled that Faretta had no constitutional right to conduct his own defense.

The public defender was again appointed to represent Faretta and conduct his defense at the trial. At the conclusion of the trial, Faretta was found guilty as charged, and the judge sentenced him to prison.

Issue

Does a defendant in a state criminal trial have a constitutional right to defend himself without counsel when he voluntarily and intelligently elects to do so?

Decision for Faretta[1]

In the federal courts, the right of self-representation has been protected by statute since the beginnings of our Nation. . . With few exceptions, each of the several States also accords a defendant the right to represent himself in any criminal case. The constitutions of 36 States explicitly confer that right. . .

The Sixth Amendment does not provide merely that a defense shall be made for the accused; it grants to the accused personally the right to make his defense. It is the accused, not counsel, who must be "informed of the nature and cause of the accusation," who must be "confronted with witnesses against him," and who must be accorded "compulsory process for obtaining witnesses in his favor." Although not stated in the Amendment in so many words, the right to self-representation—to make one's own defense personally—is implied by the structure of the Amendment. The right to defend is given directly to the accused; for it is he who suffers the consequences if the defense fails.

. . . The language and spirit of the Sixth Amendment contemplate that counsel, like the other defense tools guaranteed by the Amendment, shall be an aid to a willing defendant—not an organ of the State interposed between an unwilling defendant and his right to defend himself personally. To thrust counsel upon the accused, against his considered wish, thus violates the logic of the Amendment.

It is undeniable that in most criminal prosecutions defendants could better defend with counsel's guidance than by their own unskilled efforts. But where the defendant will not voluntarily accept representation by counsel, the potential advantage of a lawyer's training and experience can be realized, if at all, only imperfectly. To force a lawyer on a defendant can only lead him to believe that the law contrives against him. Moreover, it is not inconceivable that in some rare instances, the defendant might in fact present his case more effectively by conducting his own defense. . . The right to defend is personal. . . And although he may conduct his own defense ultimately to his own detriment, his choice must be honored out of "that respect for the individual which is the lifeblood of the law."

. . . [I]n order to represent himself, the accused must "knowingly and intelligently" forego those relinquished benefits. . . [H]e should be made aware of the dangers and disadvantages of self-representation, so that the record will establish that "he knows what he is doing and his choice is made with eyes open."

[Faretta's] . . . technical legal knowledge, as such, was not relevant to an assessment of his knowing exercise of the right to defend himself.

In forcing Faretta. . . to accept against his will a state-appointed public defender, the California courts deprived him of his constitutional right to conduct his own defense. . .

Decision for State of California[2]

The fact of the matter is that in all but an extraordinary small number of cases an accused will lose whatever defense he may have if he undertakes to conduct the trial himself. . .

. . . Although we have adopted an adversary system of criminal justice, the prosecution is more than an ordinary litigant, and the trial judge is not simply an automaton who insures that technical rules are adhered to. Both are charged with the duty of insuring that justice, in the broadest sense of the term, is achieved in every criminal trial. That goal is ill-served, and the integrity of the public confidence in the system are undermined, when an easy conviction is obtained due to the defendant's ill-advised decision to waive counsel. . .The system of criminal justice should not be available as an instrument of self-destruction.

In short, both the "spirit and the logic" of the Sixth Amendment are that every person accused of crime shall receive the fullest possible defense; in the vast majority of cases this command can be honored only by means of the expressly guaranteed right to counsel, and the trial judge is in the best position to determine whether the accused is capable of conducting his defense. True freedom of choice and society's interest in seeing that justice is achieved can be vindicated only if the trial court retains discretion to reject any attempted waiver of counsel and insist that the accused be tried according to the Constitution. This discretion is as critical an element of basic fairness as a trial judge's discretion to decline to accept a plea of guilty.

[1]Majority opinion written by Mr. Justice Stewart.

[2]Dissenting opinion written by Mr. Chief Justice Burger, with whom Mr. Justice Blackmun and Mr. Justice Rehnquist joined.

FOCUS ON LAW

NEWSLETTER OF
THE CENTER FOR LAW-RELATED EDUCATION

Volume Two, Number Two Winter 1976

CENTER NEWS

CENTER TO OFFER FIVE SPRING COURSES

The Center for Law-Related Education is pleased to announce its schedule of classes for the Spring term for Cincinnati-Hamilton County social studies teachers and administrators. Each course will meet from 7:00 to 9:30 p.m. one evening a week for a period of ten weeks. Each participant will receive *free tuition, texts,* and *curriculum materials,* and, upon successful completion of the course, three (3) quarter hour graduate credits from the University of Cincinnati's College of Education and Home Economics.

Three secondary level courses, designed for educators in grades seven through twelve, and two elementary level courses, designed for educators in grades kindergarten through six, will be offered.

Each course consists of substantive law presentations combined with educational workshops. The substantive law faculty is comprised of lawyers, judges, law enforcement officials, and/or corrections officials and the education faculty consists of the Center's Executive Director and an experienced secondary or elementary school teacher. In addition, each participant is provided an opportunity to participate in a police ride-along program in cooperation with the Cincinnati Police Division. Additional details about each of these courses follow.

Educators interested in enrolling in any of these five courses should complete the application found on page 19 of this newsletter and mail it to the Center at the address indicated. Additional application forms may be obtained by xeroxing the enclosed form or by writing or telephoning (475-3982) the Center. In many instances, applications should be available from individual school principals. The Center's staff urges all interested educators to adhere to the deadlines specified for each of the five courses and submit applications as soon as possible.

SECONDARY

Law and the Community

In cooperation with the Cincinnati Public Schools, the Center will offer a course entitled "Law and the Community." Enrollment is open to thirty secondary (7-12) social studies teachers and administrators from any of the Cincinnati-Hamilton County schools, especially those who teach in the Cincinnati Public Schools.

"Law and the Community" will combine the use of guest speakers and panel presentations with demonstration lessons to explore such topics as:

–The Nature of Law
–The Role of the Police
–The Courts: Their Structure and Function
–Corrections: Alternatives to Incarceration
–Local Legal Assistance: Where? When? How?
–Landlord-Tenant Relations
–Consumer Rights and Liabilities
–The Law of Torts

The course will meet at Crest Hills Junior High School (near Swifton Shopping Center) each Thursday evening, beginning on March 18 and ending May 27.

Applications for admission will be accepted *no later than March 4, 1976.* Applicants will be notified of their status by March 11, 1976.

The Community and Its Police

In cooperation with the Catholic Archdiocese of Cincinnati and Elder High School, the Center will offer a course entitled "The Community and Its Police." Enrollment is open to thirty secondary (7-12) school social studies teachers and administrators from any of the Cincinnati-Hamilton County schools, especially those who teach in a parochial school.

continued on page 3

Editor: David T. Naylor

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The Board of Directors and staff of the Center for Law-Related Education wish to express their sincere appreciation to the Cincinnati-Hamilton County Criminal Justice Regional Planning Unit, the University of Cincinnati, and the Cincinnati Bar Association for their financial support of the Center's Programs.

The views and ideas contained in this publication should not be construed to be necessarily those of the Center's funding agencies.

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INTRODUCING FOCUS ON LAW

This is the second issue of the second volume of *Focus on Law*. Published three times a year—Fall, Winter, and Spring, *Focus on Law* is distributed to Cincinnati-Hamilton County teachers and administrators free-of-charge by the Center for Law-Related Education.

Located at the University of Cincinnati's College of Education, the Center is committed to the development of a comprehensive program of law-related education throughout Hamilton County, Ohio. The Center, now in its third year, was established in response to the need to help reduce misunderstanding, skepticism, and ambivalence concerning the law, law enforcement and the administration of justice now evident in our society. Through extensive teacher-training, curriculum development, a law resource personnel service, and information programs, the Center is helping to provide teachers with the knowledge, skills, and materials requisite to teaching about the law and the legal system in their classrooms.

With *Focus on Law*, the Center seeks to further its objectives by disseminating information about law-related education throughout the community. Its purpose is to help keep educators well informed and up-to-date on recent developments regarding the law and legal system with respect to law-related education.

This issue of *Focus on Law* contains strategies—both elementary and secondary—for teaching about various aspects of law studies. In addition, it contains information about Center activities and programs, probation work as a career opporunity, significant Supreme Court decisions, and other articles of interest.

The Center's programs, and this newsletter, represent the effect of the combined efforts of the University of Cincinnati's Colleges of Law and Education, the Cincinnati-Hamilton County Public and Parochial Schools, Cincinnati Police Division and Bar Association, and the Cincinnati-Hamilton County Criminal Justice Regional Planning Unit.

Those wishing to receive this publication may either contact the Center for Law-Related Education, 635 Pharmacy Building, University of Cincinnati, Cincinnati, Ohio 45221, (513) 475-3982, or complete and return the request form below, to have their names placed on the mailing list.

If you would like to receive FOCUS ON LAW free-of-charge, please complete the following and send it to the Center.

Name: _____

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continued from page 1

An often misunderstood and frequently controversial component of the criminal justice system is examined in this course of study through the use of guest speakers, role playing, demonstration lessons and field experiences. The subjects that will be treated in this course include:

–Anatomy of an Urban Police Department
–Recruitment and Training of a Police Officer
–The Plight of the Patrolman
–Police Arrest and the Rights of the Individual
–Police Searches and the Law
–The Prosecutor and Defense Attorney: Two Views
–Toward More Effective Law Enforcement

"The Community and Its Police" will meet at Elder High School each Wednesday evening beginning on March 17 and ending May 26.

Applications for admission will be accepted *no later than March 3, 1976.* Applicants will be notified of their status by March 10, 1976.

Youth and the Law

In cooperation with the Sycamore Community Schools, the Center will offer a course entitled "Youth and the Law." Enrollment is open to thirty secondary (7-12) school social studies teachers and administrators from any of the Cincinnati-Hamilton County Schools, especially those educators in the Sycamore Community Schools.

Participants in this course will have the opportunity to examine the following areas of concern with guest speakers as well as take part in a number of demonstration lessons and examine a number of different teaching materials designed for secondary school use. Among the topics to be considered are:

–The Legal Minor in Ohio
–The Juvenile Delinquent
–Landmark Supreme Court Decisions and the Juvenile Offender
–The Juvenile Court: Goals, Problems and Future
–Corrections Programs for Juveniles
–Students, Schools and the Constitution
–Student Rights and Responsibilities

This course will meet at Sycamore High School each Wednesday evening beginning on March 17 and ending May 26.

Applications for admission will be accepted *no later than March 3, 1976.* Applicants will be notified of their status by March 10.

ELEMENTARY

Teaching Elementary Children About the Law

In cooperation with the Princeton City Schools, the Center will offer a course entitled "Teaching Elementary School Children About the Law." Enrollment is open to thirty elementary (K-6) school teachers whose responsibilities include the teaching of social studies as well as elementary school administrators. Any educator from a Cincinnati-Hamilton County school district is eligible to enroll. Educators within the Princeton City Schools are particularly encouraged to enroll.

Combining presentations by persons from various parts of the criminal justice system with demonstration lessons, role playing and other educational strategies, the following questions will be examined.

–Why should law-related studies be a part of the elementary school curriculum? How can they be taught effectively?
–What is law? Why do we have laws? How do criminal and civil law differ?
–What is lawful and unlawful conduct? How do a felony and misdemeanor differ? How serious a problem is crime in the United States?
–What are the duties of a police officer? How does a police officer enforce these duties? What problems does he face?
–What constitutional protection exists for the accused? What rights exist prior to arrest? Following indictment? After conviction?
–What is the role of a judge? How does he decide what is lawful–unlawful? fair–unfair? How does one become a judge?
–What should be done about unlawful conduct? What alternatives exist to imprisonment? What is their purpose?

"Teaching Elementary School Children About the Law" will meet at Princeton High School each Tuesday evening beginning on March 16 and ending May 25.

Applications for admission will be accepted *no later than March 2, 1976.* All applicants will be notified of their status by March 9, 1976.

Teaching About Liberty and Equality

In cooperation with the Mariemont City Schools, the Center will offer a course "Teaching Constitutional Issues to Elementary School Children." Enrollment is open to thirty elementary school teachers and administrators from any Cincinnati-Hamilton County School district. Educators from the Mariemont City Schools are especially invited to enroll.

Utilizing guest speakers, demonstration lessons, role playing and other educational strategies, the following questions will be explored:

–Why should elementary school children learn about such issues as freedom, equality and privacy? What are some ways teach these issues effectively?
–What is meant by the term "liberty?" How free are religious groups to disseminate and practice their ideas?
–What is meant by "separation of church and state?" In what ways do laws and the courts provide for it? How and why have the schools been important areas of controversy?

–What is "speech" under the Constitution? When can it be restricted? What guidelines currently exist governing freedom of speech?
–How does speech differ from the written word? How free is one to publish? What ways, if any, can the press be restricted? Should it be restricted?
–How is equality defined by the law? What guarantees exist for "equal treatment" under the law?
–In what ways are citizens protected from racial, sexual or gender discrimination? What rights exist with regard to housing, employment and education?
–What encompasses "privacy" according to law? What are some of the costs and benefits of privacy? How much privacy should our society permit?

This course will meet at Mariemont Middle School on Monday evenings, beginning on March 15 and ending May 24.

Applications for admission will be accepted *no later than March 1, 1976.* All applicants will be notified of their status by March 8, 1976.

CLASSROOM STRATEGIES

SELECTED STRATEGIES PREPARED BY FALL PARTICIPANTS

In each of the courses offered by the Center for Law-Related Education, substantive presentations about law and the legal system are provided by distinguished attorneys, judges, police officers, corrections officials and other resource persons from the Greater Cincinnati area. The substantive presentations are combined with educational workshops led by the Center's Executive Director and an experienced Cincinnati-Hamilton County teacher. In each of the educational workshops, various value clarification and inquiry teaching strategies are presented and analyzed, as well as a variety of commercially available law-related materials. The format is designed to aid teachers in implementing various aspects of the course curriculum in their respective classrooms.

As a culminating activity for each of the courses offered by the Center, participants are asked to prepare a teaching unit dealing with one of the areas of concepts dealt within the course. Each unit is to contain a series of five to seven sequentially developed lessons designed to enable and encourage students at a particular grade level (e.g., K-2, 5-6, 10-12) to explore a particular legal topic or concept.

During the Fall, 1975, semester, approximately 150 Cincinnati-Hamilton County educators enrolled in the five courses offered by the Center. The exercises which follow, selected from among a number of excellent lessons prepared by these participants, were chosen to illustrate the variety of classroom springboards and teaching techniques that may be used by a secondary or elementary school teacher to promote student analysis and class discussion of law-related topics.

PRIMARILY FOR SECONDARY STUDENTS

A. Using an Opinion Poll–When Is a Lawyer Needed?*

This is designed as an introductory lesson in a unit dealing with attorneys. Each of the following involve situations in which an attorney may or may not be needed. Ask students to circle the appropriate response to indicate those situations in which they feel an attorney should be consulted.

Yes	Maybe	No	1. You run into another car in a parking lot. Your insurance agent indicates the company will pay all costs for physical and bodily damage.
Yes	Maybe	No	2. You borrow your sister's car without her knowledge and she reports it to the police as stolen.
Yes	Maybe	No	3. You bought a new roof for your house. When it rained, several shingles blew off and it leaked. The company said the roof was fine when they installed it the month before, and they refuse to fix it.
Yes	Maybe	No	4. You and your friends plan to rob the local grocery store but you "chicken out" at the last minute. Your friends are caught and they name you as one who helped plan the robbery.
Yes	Maybe	No	5. The principal suspends you from school for three days because of an article you wrote for the school paper which criticized the food served in the school cafeteria.
Yes	Maybe	No	6. Your parents demand that you give them the money you have been earning by working part-time in the grocery store. They say they need it to help pay the bills.
Yes	Maybe	No	7. You do not want your family to inherit the $10,000 you have saved. Told you will die of cancer within a year, you want the money to be used for cancer research.
Yes	Maybe	No	8. You and your mate find that you can no longer get along. You want a divorce.

Yes Maybe No 9. Your boss tells you that he is dissatisfied with your work and fires you.

Yes Maybe No 10. You buy a weight-reducing machine guaranteed to make you lose ten pounds in two weeks. After two weeks you weigh four pounds more than when you started. The company claims you did not follow their recommended diet and exercise program and refuses to refund your money.

Classroom Procedures:

1. Compile the results and record them on the chalkboard, transparency or dittoed sheet.
2. Ask students to explain the reasons for their decisions.
3. For which of these situations was there the greatest degree of disagreement? Why?
4. Ask students to investigate how one would secure an attorney.
5. As a follow-up activity, invite an attorney to speak to the class to comment on each of these situations and to explain the role of an attorney.

*Based on a lesson developed by Ms. Carol M. Meibers, O.W.E. teacher at Northwest High School.

B. Using a Song: Factors Contributing to Juvenile Delinquency*

As a means of initiating an examination of factors contributing to juvenile delinquency, the teacher may wish to use the song "Officer Krumpke" from the musical "West Side Story." (Copyright regulations prohibit its publication in this newsletter.)

Play the record. Copies of the lyrics may then be distributed with students asked to underline and/or compile a list of those factors suggested by the gang in the song as contributing to juvenile delinquency.

Have students describe the attitudes shown towards the gang by the police officer, the judge, the analyst and the social worker. What attitude does the gang demonstrate toward each of them?

Have students compile a composite of those factors they believe contribute to juvenile delinquency. This may then be used as a hypothesis from which a more intensive study can be launched.

*Based on a lesson developed by Ms. Sonja Kelley, social studies teachers, Bloom Junior High School (Cincinnati).

C. Using Television: The Police on TV

Police shows tend to dominate much of television broadcasting. They include such programs as Kojak, Hawaii Five-O, Police Story, Policewoman, The Rookies, S.W.A.T., Streets of San Francisco, Joe Forrester, Starsky and Hutch, Adam-12, Dragnet, The Blue Knight and others. These programs may be used in several ways in conjunction with a classroom study of the police, as indicated by the two which follow.

The Police Role

Students may be asked to watch several of the various police shows during a week and compile a list of the various tasks they are asked to perform. Such areas as the following may be used as category headings:

A. Crime Control (e.g., investigation, felony arrests)
B. Service Functions (e.g., helping the sick or injured, traffic control, rescuing people or animals)
C. Order Maintenance (e.g., family quarrels, disturbing the peace incidents)
D. Other

The individual student lists may then be compiled and a class profile obtained. With which of the categories do television police seem most pre-occupied? How realistic is this? From such inquiry an investigation of the nature of the police role may be initiated.

The Exercise of Police Power

Police in television shows frequently are involved with arrest, search and seizure, interrogation, and the use of force to restrain and apprehend suspects. A student assignment to survey the manner in which the police exercise these powers may be used to explore the means used, the basis for arrests and search and seizures, and methods of interrogation. Questions such as those which follow may be utilized:

A. Do they represent good police work?
B. Are they performed in a manner consistent with the rights of citizens as guaranteed by the Constitution of the United States?
C. If the television police do exceed their authority, are they ever disciplined?
D. How consistent are the actions of television police with those of actual police?

D. Forced Choice/The Police Dispatcher*

This lesson is designed as part of a unit dealing with the nature of the police role. The following situation should be presented to students:

It is 9:00 p.m. on a busy Friday night just before Christmas. Because of a manpower shortage, only fifty percent of the calls for police assistance can be answered. You are the police dispatcher. To which five of the following calls would you dispatch a police officer?

1. Auto reported stolen
2. Elderly lady mugged on the street
3. Drunk wielding a knife in a public bar
4. Six teenagers reported to be loitering on a street corner
5. Woman who locked the keys in her car
6. Complaint of loud music at a neighborhood party
7. Child who has fallen into a storm sewer basin
8. Fender-bender accident in a shopping center
9. Pot party reported in a city park
10. Report of a two-car collision at a busy intersection with possible bodily injury.

Classroom Procedures:

1. Give each student a copy of the springboard.
2. Ask students to circle the number of their choices.
3. Obtain a percentage class composite.
4. Explore the criteria students used in making their decision.
5. Solicit responses as to what students feel should be done about the calls to which police were unable to respond. How would these people feel? Are there other agencies that could respond? Discuss.
6. Ask students to consider how realistic this situation is in the day-to-day activities of the police.

*Based on a lesson prepared by Mr. Melvin R. Brown, social studies teacher at Princeton High School.

E. Using a Continuum: How Serious An Act of Vandalism?*

The following lesson was designed to provide students with the opportunity to make judgments as to how serious are various acts of vandalism. Students are to circle the appropriate number indicating their feelings about each act using a scale or continuum ranging from 1=not very serious to 7=very serious.

Vandalism: The willful and malicious destruction, injury, disfigurement, or defacement of property without consent of the owner or person having custody or control.

1. Six boys spray an animal laboratory with a fire extinguisher.
   1 - 2 - 3 - 4 - 5 - 6 - 7
2. A street sign reading 30 mph is altered to read 80 mph.
   1 - 2 - 3 - 4 - 5 - 6 - 7
3. Graffiti covers the restroom walls of a local high school.
   1 - 2 - 3 - 4 - 5 - 6 - 7
4. While celebrating a World Series victory, baseball fans throw rocks and cans through many windows of downtown businesses.
   1 - 2 - 3 - 4 - 5 - 6 - 7
5. A teenage girl puts a lipstick heart and initials on an ancient Indian rock carving.
   1 - 2 - 3 - 4 - 5 - 6 - 7
6. Several youths set fire to an open field and then call the fire department to see how long it takes for the fire trucks to arrive.
   1 - 2 - 3 - 4 - 5 - 6 - 7
7. On Halloween, two boys splatter several homes with eggs.
   1 - 2 - 3 - 4 - 5 - 6 - 7

Classroom Procedures:

1. Provide each student with a copy of the instrument. Ask that each complete it at his desk.
2. After students have marked their sheets, solicit responses for each of the items. Explore reasons for the various responses.
3. Upon completion, rank order on the basis of class totals. Discuss with such questions as: How important was the act itself? How significant was the reason for the act? Should all vandals be treated alike?

*Based on a lesson prepared by Mr. Michael V. Minton, a sixth-grade teacher, Becker Elementary School (North College Hill).

PRIMARILY FOR ELEMENTARY STUDENTS

A. Using a Checklist: How Do You View Our Laws

Ask each student to check those words wh suggest his feelings or thoughts about our laws.

_____unfair	_____obey
_____clear	_____wise
_____important	_____unin
_____disliked	_____fair
_____protective	_____usel
_____foolish	_____conf
_____*dangerous*	_____*help*
_____respected	_____igno
_____useful	_____enfo

Classroom Procedures:

1. Upon completion have students identify those word list which suggest positive feelings about the law a which suggest negative feelings about the law.
2. Ask each student to add up the number of positive has checked and then the number of negative words Substract the smaller from the larger of the two s results may be considered as an indication of the feelings about the law.
3. A class profile may be completed. The results, both i and class, should lead to a productive discussion regar such feelings are held.

*Based on a lesson designed by Ms. Donna St seventh–eighth-grade teacher, Lockland Middle Sch

B. Using Rank Order: Colonial Laws*

One means for understanding the nature of l have students examine laws in existence during times. Ask students to rank order the following set from 1=least useful to 9=most useful.

Colonial Laws

1. A thief is required to restore stolen goods or their valu
2. Smiling and whispering in church is prohibited.
3. A man cannot shave on Sunday.
4. Drunkenness is forbidden.
5. Excess in apparel is forbidden.
6. No gambling.
7. Every man must work on the town's roads a few month.
8. Every man must shoot three crows or twelve b between middle of March and last day of June.
9. Sunday is a day of rest; no business can be conducted.

Discussion Questions:

1. Are any of the above laws passed by colonial le evident in our society today? Can laws go out of style?
2. Why were these laws passed? What values do they repr
3. Do the laws of a society show what it values? If examples of some of our laws and indicate the va represent.

*Based on a lesson by Ms. Mary Lynn E fifth-grade teacher, Cameron Park Elementary (Greenhills-Forest Park).

C. Using Pictures/Categorizing: Analyzing the Police Officer's Job*

After indicating that the children will be next studying about the police, ask them to either draw a picture of a police officer doing a particular job or find a picture in a magazine or newspaper of a police officer involved in a certain job. Ask the children to write a sentence telling what the police officer is doing and attach it to the drawing or picture.

On the designated day, ask the children, one at a time. to tell what the police officer is doing in the picture they have selected. List the task on the chalkboard as each is given. When all the children have finished telling about their pictures, read over the list with the class. If some areas have been neglected, the teacher may suggest them or show pictures she has obtained which illustrate these tasks.

Classroom Procedures:

1. Ask students to group these tasks into one of the following categories: Not Very Important, Important, Very Important.
2. Distribute paper to the children. Have the children set up their papers to indicate their choice for each of the numbered items. Explain that this is to be their opinion and that there are no right or wrong answers.
3. When the responses are complete, construct a chart on the board indicating the children's choices. The results should be discussed and may be posted on a bulletin board for further reference.
4. An additional activity would be to distinguish between those tasks that are of a service nature (e.g., rescuing pets, helping children across the street), those of an order-keeping nature (e.g., the School Resource Officer, police at public events), and those of a crime fighting nature (e.g., pursuing a suspect, arresting a suspect).
5. The teacher may wish to place the children's pictures on a bulletin board or wall. They may be grouped according to the task being performed.

*Based on a lesson prepared by Ms. Mary Naylor, third-grade teacher.

D. Using the Newspaper: A Notebook of Court Proceedings*

In conjunction with a study of the courts, each member of the class is asked to compile a notebook of news articles from the daily newspapers. Each article should deal with various cases to be, or actually being, tried in the state or federal courts.

On each sheet of paper to which an article has been affixed, the student should write one fact about law he obtained from the article. He should also underline the main courtroom characters in addition to marking the source and date of publication.

The first ten to fifteen minutes of each class period will be reserved for "Courtroom Briefs." At this time, the children will have an opportunity to share any information found in a news article of concern to them.

A permanent bulletin board display of news articles about court cases will be maintained. The daily development of a particular case or cases may be profiled.

The following are designed to illustrate the type of information desired:

Headline	*Item of Interest*
"Police Murder Trial Testimony Clashes"	Not all of the time does the testimony of witnesses agree.
"Miss Hearst Won't Plead Insanity on Robbery Charges Attorneys Say"	Insanity defense for a trial is possible in certain circumstances.
"Court: Mail Ban on Handguns– Includes Sawed-Off Shotguns"	The U.S. Supreme Court has ruled it is a criminal offense to mail firearms capable of being concealed on a person.
"105-Year Sentence Upheld"	A man ordered to serve a 105-year sentence could become eligible for parole in six years according to regulations of the Kentucky State Parole and Probation Board.
"Hostage-Holding Bank Robber Given 25-Year Sentence"	Parole violations can result in more time in prison.
"Grand Jury Gets Robbery Case"	A judge sets a defendant's bond.

*Based on an exercise prepared by Ms. Shirley Seifert, an intermediate school teacher, Shawnee Elementary School (Indian Hill)

E. Using Poetry: Freedom and Our Bill of Rights*

Have the children read each of the poems written by Ms. Cheryl Semm.

The Suppressed Man	*The Free Man*
There was a man Who lived by the sea.	There was a man Who lived between two oceans.
He tried to be Like you and me.	He was free to do Many kinds of motions
He worked very hard So he could be free.	He worked very hard For the things he got.
But no matter what he did, He never found liberty.	From working that way He had a lot.
He saw things were wrong Like the laws were weak:	When he saw things were wrong Like the law was weak:
He wanted to change them But was not free to speak.	And wanted to change it He was free to speak.
He needed to change things The country was in distress.	If he saw problems That were causing distress.
He thought of writing his complaint But there was no freedom of the press.	He had a special freedom Like writing in the press.
Things were getting much worse: The people began to tremble.	If something would happen; To make the people tremble.

(poems continue next page)

He thought of forming a group
But people were not free to assemble.

He only needed a group
And find a place to assemble.

He turned to prayer, asking for help,
But was not free to believe.

Many times he turned to prayer,
For he was allowed to believe.

With nothing more to do,
His world he decided to leave.

Being thankful for what he had
This place he would love and
never leave.

Questions:

1. Which man would you rather be? Why?
2. What privileges or rights are given in "The Free Man?" Are these important?
3. If you saw things were wrong, which place would you rather be? Why?
4. What things make up a good place to live?
5. What things do you think we must do to keep the rights we have?

*Based on a lesson by Ms. Cheryl Semm, a fifth-grade teacher, Rothenberg Elementary School (Cincinnati).

F. Using a Series of Questions to Stimulate Discussion: Books, Freedom, and Censorship*

The following questions may be used with a lower elementary school class to begin to develop an awareness of one of the basic rights of American citizens–Freedom of the Press.

1. What kinds of books do you like to read? (May list responses on the board.)
2. Where do you get the books you read?
3. Do you like to pick out books to read or do you prefer others to pick them for you?
4. Would you be happy or sad if a law were passed which said "No books may be read by children under the age of 12?"
5. How important is it for people to be able to read books?

*Based on a lesson prepared by Ms. Elaine Brown, a second-grade teacher, Whittier Elementary School (Cincinnati).

G. Using Open-Ended Situations: Sex Roles and Equality*

On four different occasions, separated by at least a few days, ask the class to draw pictures of people in eight different professions as follows:

1. Police Officer and Engineer
2. Doctor and Mayor of a City
3. Teacher and Principal
4. Person in the arts and Person in sports

Classroom Procedures:

1. Request that students not draw a particular person they know or know of. Instead ask that students draw anyone who could be in this profession.
2. Give the person drawn a first name. Write it by the picture.
3. Collect the pictures after each assignment.
4. When all pictures have been completed and turned in, tabulate the number of men and the number of women in each profession.
5. Return all eight pictures to each student. Ask students to look at them carefully. What can be said about them?
6. Poll students as to the number of women they drew. Reveal the class totals. Discuss the results.
7. Follow-up questions may be used to examine careers and sex. Does it, or should it, matter whether one is a male or female when considering a future career?

*Based on a lesson prepared by Ms. Nancy Huppertz, a fifth-grade teacher, Bevis Elementary School (Northwest).

H. Using a Hypothetical Situation and Open-Ended Statements: The Right of Privacy*

Read the following story:

Mrs. Smith has a fifth-grade class. Every month she posts the grades of the weekly test on the class bulletin board. Mrs. Smith also gives gold stars for perfect attendance and red stars for not being late.

Sandy and Terry have never received a gold star. Their grades are also poor. One day the two girls approach Mrs. Smith and ask her to stop the practice of posting test scores and awarding stars. They argue that they do not wish to let other students know their test scores. They claim posting the scores violates their right of privacy.

Classroom Procedures:

Have students complete the following open-ended statements: a.) Test grades and attendance records should be posted because . . . b.) Test grades and attendance records should not be posted because . . . c.) I think Mrs. Smith should . . .

2. Record and discuss the responses of the class.

*Based on a lesson by Ms. Alice Adams, an intermediate grade school teacher, Whittier Elementary School (Cincinnati).

A STRATEGY FROM ANOTHER SOURCE

The following exercise is designed to develop student understanding of the complexities of and difficulties involved in creating a law. It was prepared by Mr. Bernard Flashberg, a social studies teacher at Cranford Senior High School, Cranford, N.J. Mr. Flashberg is actively involved in law-related education both as a teacher and as a member of the staff of Seton Hall University's Law-Focused Education project. This past summer he served as the director of a four-week law-related education summer institute at Stockton College, one of the summer institutes sponsored by the Seton Hall project.

The Center is appreciative of Mr. Flashberg's contribution to this issue of *Focus on Law* and welcomes comments and submission of teaching strategies by teachers and others both within and outside of the Cincinnati-Hamilton County area. The Center, however, assumes no responsibility for

unsolicited manuscripts. Unaccepted manuscripts will be returned if accompanied by a stamped, self-addressed envelope.

CREATING A LAW

According to Cicero, "the good of the people is the chief law." Since one of the purposes of law-related education is to extend an appreciation for and an understanding of the law, students should be exposed to the complexities of a law, good or bad. Additionally, since nothing is perfect, the question might be asked, "what are the components of a good law?" The following exercise may serve to accomplish the goals of being able to appreciate the values of law as well as the procedures followed in developing a law which will gain respect.

The exercise is simple. After its completion, the students will have each created their "own" law, which in their minds will fill a gap they perceive to exist. However, an added benefit will be the capacity to analyze the inherent values that are involved in the composition of our laws. Perhaps, students will even come to a greater appreciation of those laws for which they see no useful purpose at present.

To begin, ask a student to propose a "law" in class. It can involve a situation as local as school, or as international as an airplane skyjacking. For practical purposes, it is more useful to work on a school-related problem. In this manner, students will be familiar with the subject at hand. After proposing a law ("All students at Public High School should be allowed to park their vehicles in the school parking lot."), students should be asked to consider their law in the light of the following criteria:

1. *Precision of Language Used*–Are all terms defined as clearly as possible? In the above example, "all students" (what of those underage? does it also include past graduates?), "vehicles" (motorcycle, van, car, truck? what of non-motorized vehicles?), and "parking lot" (what area comprises the parking lot?) need to be sharpened. A law must be clear to all who read it.
2. *Conflicting Portions with Existing Laws*–Does this law propose something in opposition to present standards? If a conflict exists, how will it be rectified?
3. *Degree of Ambiquity Open to Interpretation*–There should be none. Everyone should gain the same interpretation when the same law is read. In the example above, the word "should" must be replaced with more definite wording.
4. *Extent of Jurisdiction*–Who will have control over the law's enforcement? Why? In the above example, will it be the administration of the school, the students, a special school committee, the local police or some other group? Why?
5. *Limits and Means of Enforcement*–How will the law be enforced? What sanctions will be used to discourage disobedience? What penalties are to be imposed for violation of the law? How was this determined?
6. *Alternate Means of Handling the Situation*–Are there other means available to handle the problem? Do unnecessary laws serve any positive purpose? Why is a law the most proper means of solving this problem?
7. *Consequences of Enforcement or Non-enforcement*–What will occur if the law is not enforced or is ignored? What if it is enforced too stringently? What effect will this law and its enforcement have upon society?
8. *Acceptability by the Majority*–Will the law be acceptable to most people? Does this matter? Why? In the above example, students comprise a majority in the school. Would they approve of the law considering the effect it may have on teachers who travel from a greater distance?
9. *Historical Reference*–Are there past corresponding situations that will help shed light on the present problem? What are the problems that have arisen necessitating the need for this law? How have similar problems been handled in the past?

Go through each of the criteria, applying them individually to the proposed law. What should emerge is an analytical appreciation of the law and a final product appreciably different than the original proposed law. A natural follow-up, after completing the class' proposed law, is to assign each student to create his own law. Again, the law may stem from any problem, local or international, and the students should create their own law considering the above nine factors. After writing out their individual law and taking care to "equip" it properly, students might be asked to orally defend their propositions to the class. After "assembling" the "law," they now become the law's salesman. This may provide an excellent vehicle for teaching about the legislative process, especially if, in simulation format, students are asked to "pass" their proposed law from the status of a bill to that of a law and if two different classes serve as the two houses of the legislature.

A law is only as strong and wise as those it is meant to serve. A democratic society is only as strong as the education of its people. Perhaps, the philosophy behind this exercise, in a small way, may serve to reinforce these strengths.

CAREERS IN LAW

ADULT PROBATION OFFICER

**Based on an interview with Mr. Phillip Muldoon, Deputy Director of Corrections for the Hamilton County Municipal Court*

Probation and parole represent two ways of dealing with society's problems involving crime and the criminal. Probation is a rehabilitative effort used instead of prison

confinement and is granted by the trial judge. Parole is a rehabilitative effort utilized after a person has been imprisoned and is typically granted by a state parole board. Both serve as positive alternatives to imprisonment.

A probation officer has two principal tasks. One task is to conduct preliminary investigation of a convicted person before the judge decides upon the sentence he will impose. This consists of obtaining a thorough social history of the convicted person and, as is true of the municipal court, may contain a recommendation to the judge of a particular program for rehabilitation. The report is strictly narrative for the court of common pleas.

Supervision of those on probation is a second task of the probation officer. In carrying out these responsibilities, the probation officer tries to find out what particular problems confront the probationer and seeks ways of helping him to better deal with those problems. This frequently results in referring the probationer to a specific community agency for help. Working closely with a wide variety of community agencies, the probation officer makes extensive use of such programs as drug and alcohol treatment centers, halfway houses, welfare agencies, housing agencies and job training and counseling centers.

The Alcohol Safety Action Program (ASAP), aimed at dealing with those convicted of driving while intoxicated, serves a good example to illustrate the role of the probation officer. With federal funds, begun in 1972, it has proven to be very successful in dealing with the problem. Cincinnati-Hamilton County traffic fatalities have decreased by at least five percent every year since the program has been in effect. If convicted, a person is referred to the probation department for evaluation. If the person has a serious drinking problem, he is required to obtain specific help through the Council on Alcoholism which refers him to a specific agency for treatment. Forty-five percent of the approximately 3,500 persons convicted of drunken driving per year have been found to have a serious drinking problem.

The probation officer plays a key role in the ASAP Program, a program which makes possible referral to appropriate agencies for treatment earlier than would be true otherwise. His supervisory and monitoring functions ensure that those convicted are receiving help and are faithful in following recommended treatment programs. Failure to submit to treatment initially, or failure to cooperate in treatment programs, could result in an end to probation and the imposition of a prison sentence, the maximum in this case being 180 days in jail and/or a $500 fine.

To be effective, the probation officer must be able to understand people, to empathize with them and their problems. He must be able to listen well, to counsel wisely and to set limits judiciously.

Three adult probation departments exist in Hamilton County. One is at the federal level working with the District Court, and two are at the state or county level, the Municipal Court and the Court of Common Pleas. Minimum educational requirements for one of these positions is a Bachelor's Degree in a related field such as sociology, psychology, social work, education, or criminal justice. Starting salary at present for the State of Ohio is approximately $11,000 per year, with step grades for raises. In addition to a good pension plan and excellent benefits, a probation officer has an opportunity to receive in-service training and advancement, both in terms of finances and responsibilities.

An excellent opportunity for those who may consider or who may wish to become more familiar with probation work as a career is service as a volunteer probation officer. It is a program considered by some corrections officials as absolutely necessary for the continued existence of probation as presently known because of the large number of people placed on probation.

The volunteer probation officer assumes responsibility for a person on probation, meeting with that person on a weekly basis. During this time, the volunteer has access to professional probation staff services and if a particular problem is discovered, professional resources are available for utilization.

Adult Probation in Hamilton County, 1974

Item	Court of Common Pleas	Municipal Court
Personnel		
–Probation Officers (Full Time)	36	37
–Probation Officer Aides	3	0
–Volunteers	65	125
Hours of Training		
–Pre-Service	0	0
–In-Service	200	57
Caseload		
–Average Caseload per Probation Officer (Excluding Pre-Sentence Investigation)	85	242
–Average Number Pre-Sentence Investigations Per Probation Officer	48	106
–Average Probation Officer Aide Caseload	20	Unknown
–Total Active Caseloads at Beginning of 1974	2,273	5,358
–Total Active Cases at End of 1974	2,742	7,262
–Total Cases Successfully Terminated During the Year	721	3,408
–Total Pre-Sentence Investigations Handled in 1974	1,569	1,262

Source: Cincinnati-Hamilton County Criminal Justice Regional Planning Unit–1976 Comprehensive Plan

To be eligible to serve as a volunteer probation officer, a person must be seventeen or more years of age, be interested in helping people, and be willing to devote at least one hour per week to meet with the probationer assigned to him. Special training provided by the Justice Volunteer Corps is given to all participants before they enter the program. Interested persons may contact either Mr. Alan McGrory of the Justice Volunteer Corps (961-3633) or Mr. Phillip Muldoon, Deputy Director of the Hamilton Country Municipal Court Probation Department (352-3316).

The one-to-one relationship not only offers insight into the role of the probation officer, but also provides the opportunity to work closely with a person who is facing problems.

LAW AND THE COMMUNITY

ATTITUDES OF APPALACHIAN YOUTH TOWARDS LEGAL AUTHORITY

*By Candance McCoy**

In the period from 1940-1970, some three million Appalachian people were forced by economic pressures to migrate from their mountain and rural homelands into the industrial cities of the Midwest. An estimated quarter-million Appalachians have settled in the greater Cincinnati area, some 80,000 of them in Hamilton County itself. A Cincinnati Human Relations Commission survey based on 1970 census data shows that fifteen out of forty-four statistical neighborhoods in the city are heavily Appalachian.

This migrant population constitutes the city's second-largest minority group. Like Cincinnati's other ethnic groups, to some degree it retains its own particular value orientations and preserves its individual cultural flavor. The Appalachian children currently enrolled in Cincinnati schools are often second-or-third-generation stock, whose parents or grandparents grew up in rural mountain areas, rather than in urban environments.

The transition period for integration into new environments is, of course, difficult for any cultural group. Appalachians are no exception, and census statistics show that large portions of this newcomer population is still "struggling." Heavy Appalachian, Black, and integrated Appalachian/Black neighborhoods in the city show uniformly socio-economic status (i.e., income, occupational status, educational status, family organization, and housing).

Common sense shows that a culturally homogenous population such as that of the Midwest's Appalachians will encounter special problems in adjusting to city life. For these migrants, the problems will arise both because of their poverty, which prompted the migrations in the first place, and also because of the severe cultural shock experienced when transition must be made from rural lifestyle and closed, closely-knit kinship/peer groups to the demands and pressures of megapolis.

That their poverty leaves them most vulnerable to the oppression and discrimination experienced by the urban poor is another matter easily perceived by any general tour of the city. Dealing with poverty, of course, requires long-range planning and community organization. However, social agencies can directly address the problem of culture shock through increased awareness of the specific cultural patterns and conflicts involved. As noted in the 1974 Cincinnati Human Relations Commission publication entitled *Social Areas of Cincinnati:*

> "Social workers and school personnel often find it difficult to communicate across barriers imposed by differences in culture and social class. Appalachians tend to have limited expectations of schools and social agencies and readily withdraw as conflict develops. As a result, urban institutions have done little to serve the specific needs of Appalachians and the results show in the statistics, especially the school dropout rate, for Appalachian neighborhoods."

Parenthetically, it may be noted that of the twelve census tracts which show school dropout rates of over 40% in the city, *all twelve* are predominately Appalachian. Dropout rates are also dramatically high in Black low SES (socio-economic status) neighborhoods, but generally hover at bit more than 20%.

Thus, it become apparent that an effective approach for enabling Appalachians to more easily adjust to urban life must develop through evaluation of the problem in light of the particular cultural patterns involved. Such an approach is essential, for example, in dealing with Appalachian youth *vis a vis* the criminal justice system.

An examination of the youth's attitudes toward legal authority, and most particularly police, shows that such attitudes are logical outgrowths of the cultural tradition and the limited urban experience. The function of social agencies is to recognize these attitudes and their sources, and to accordingly accommodate both the Appalachian to further re-evaluation of his cultural conflicts, and the representatives of the criminal justice system to a broader understanding of the Appalachian reaction.

The Appalachian child's image of urban legal authority,

whose symbol is the policeman, is apt to be negative. This is so for a variety of reasons. The young poorer city dweller often feels that he is being "picked on" unfairly by police. In addition, the Appalachian youth has usually dealt with police only when he is in particularly stressful situations.

Dealing with police in particularly stressful situations is a problem of both generations, but the fear and hostility engendered, unfortunately, severely affects the youth, who carries these attitudes with him for years to come. Examples of cultural clashes creating adverse attitudes toward authority among these youth include, among others, domestic stress in new environments, individualism in the fact of need for legal help, and perceived prejudice in the legal system, both as to poor people and as to Appalachians in particular.

Traditionally, the extended family is a highly visible feature in Appalachian life. Kinship plays an essential role in the social structure, providing stability in social, cultural, and economic affairs. For various reasons, this security-producing cultural pattern is often severely strained, if not destroyed, under the pressures of the entirely different urban environment. The youth, especially, bears the brunt of domestic readjustment, which during his formative years leaves him with feelings of insecurity and confusion in a family life which formerly was quite stable. Unfortunately, some of his deeper impressions of police as symbols of legal authority are often a result of watching police intervene in his family's domestic squalls. He equates police with ultimate evidence of the breakdown of his security. He fears and fights this, and one of his reactions is that of his distrust and hostility towards police.

This one example of the clash of traditional Appalachian values with urban reality, and the adverse reactions to legal authority engendered, is but one facet of the phenomenon, and is by no means universal. However, other examples of the situation can also be cited. For instance, mountain folk traditionally, of necessity or by cultural preference, or for whatever reason, have been characterized as individualistic. Mountain life progresses smoothly with an emphasis on "doing for yourself and your own," but, again, the complexities of urban life put this value under strain.

Often an urban Appalachian will require legal help, either of a technical nature or of simple police procedure, but will be reluctant to seek it out, prefering to try to handle it alone. This value is transferred down even to those generations who have never lived in the mountains. Consequently, an Appalachian is sometimes loath to use legal counsel even when it is available. A quick statistical analysis run in the major non-church service agency in Over-the-Rhine, a poor area of the city with a population about equally divided between Blacks and Appalachians, bears this out. Proportions of persons seeking legal counsel at the center (for various civil assistance—usually regarding social security benefits, housing, wills, and the like) should about evenly reflect the divided proportions of major population groups. Yet Appalachians generally seek help less often. Of sixty-seven persons seeking legal help in a recent two-month period, only twelve were Appalachians.

Much of an Appalachian youth's experience with police is, of course, the product of poverty and frustration. Cases of resisting arrest and of disorderly conduct are common. Disdain for the courts as dispensers of inequal justice also develops as a result of various experiences. For example, judges sometimes are reluctant to grant own-recognizance (OR) release to the Appalachian in lieu of bail, apparently in the belief that he will "skip" back to the hills, though his family and ties are now in the city. From such experiences Appalachian alienation has quickly developed.

Institutions such as the schools can help the Appalachian's adjustment period to progress more smoothly by encouraging dialogue between representatives of the legal system and the youth, but, more importantly, between the youth themselves. An awareness of the role of police and one's civil rights is essential here, and this can grow from realistic classroom dialogue. Generally, the Urban Appalachian Council's Legal Awareness Committee, a group which sponsors "rap groups" with Appalachian youth concerning their legal rights and responsibilities, has found a "be cool" emphasis helpful. Children react well to programs on "what a policeman can do for me" (rather than against me). Teenagers desperately need discussion on legal rights when arrested, with an emphasis on "staying cool"—the fact that nothing is gained and much more harm done by resisting arrest. Discussion on presenting your defense in court rather than fighting a policeman leads to examination of the nature of the judicial system. Most importantly, awareness by the police, the bench and bar, and school personnel of the particular cultural trends at work is the key to dealing effectively with daily conflicts and in developing long-range programatic solutions to the Appalachian's adverse reaction to the symbols of legal authority.

*Ms. Candace McCoy, a law student at the University of Cincinnati's College of Law, is employed by the Urban Appalachian Council, working with the Appalachian Legal Action Committee, a standing committee of the Council. The Urban Appalachian Council is a non-profit social planning agency whose function is to render already existing institutions responsive to Appalachian needs, or to create alternative structures for responding to these needs. It is engaged in programs of research, advocacy, and community organization.

OHIO'S NEW MARIJUANA LAW *

Ohio became the sixth state to decriminalize the possession of small amounts of marijuana on November 21, 1975. Oregon was the first state to decriminalize marijuana by making possession of less than one ounce a civil offense on January 1, 1972. Alaska got what is considered the most liberal law in the country when its Supreme Court ruled that use of marijuana in the privacy of one's own home is no offense—civil or otherwise. California, Colorado, and Maine have also decriminalized their laws.

Here is how the new Ohio marijuana law works:

NEW PENALITIES IN OHIO

Possession of less than 100 grams, or 3½ ounces, is a minor misdemeanor, no matter how many times the person may be arrested or convicted. It is a civil offense, with a fine of up to $100 and no jail term. Arrest or conviction does not constitute a criminal record and need not be reported by the person in response to any inquiries about the person's criminal record.

Possession of from 100 to 200 grams brings a maximum 30-day sentence and a fine of up to $250.

Possession of from 200 to 600 grams is considered possession for sale. First offenders are charged with a fourth-degree felony; punishable by a minimum of six months and a maximum of five years in jail, and a fine not to exceed $2,500. Second offenders face a third-degree felony charge, one to 10 years and a $5,000 fine.

Possession of more than 600 grams brings a third-degree felony charge the first time. Subsequent offenses, a second-degree felony, carry from 2 to 15 years in prison and up to $7,500 fine.

Gift of 20 grams or less carries a $100 fine with the criminal record maintained. Subsequent offenses bring up to 60 days in jail and/or a $500 fine.

Sale of 200 grams or less is a fourth-degree felony the first time; it becomes a third-degree felony on subsequent offenses.

Sales of 200 to 600 grams are third and second-degree felonies.

Sales of 600 grams or more carry a mandatory six-month jail term and are a second-degree felony.

Preparing for shipment (dividing a bulk amount for individual sales) is a fourth or third-degree felony.

Financing (paying for a bulk amount to be resold) is a second-degree felony with a mandatory one-year sentence for first offenders and mandatory two-year sentences for repeaters.

Cultivating or harvesting are fourth-degree and third-degree felonies.

Corrupting (forcing another to take a drug, harming someone with it, or providing it for anyone under 18 who is more than four years younger than the offender) is a fourth-degree felony with a mandatory three-month minimum sentence the first time and mandatory six months on subsequent offenses.

*From an article entitled, "Maryjane & You," in *Report from Attorney General William J. Brown*, Volume IV, Issue 3 (December 31, 1975). Reprinted by permission.

"THEY WON'T CATCH ME"— OR WILL THEY ? *

Holiday spirits aren't the only thing that get lifted from Thanksgiving to Christmas. Mid-November to December is the peak of the shoplifting season for both professionals and amateurs, according to Attorney General William J. Brown.

Brown is serving his second year as Chairman of the Ohio Council Against Shoplifting. The group is focusing its educational program this year in Ohio's schools because they are convinced that the majority of shoplifters are under 18.

"The Federal Bureau of Investigation estimated last year that one out of every three young people between the ages of 13 and 19 would shoplift sometime in their teenage years," Brown said. "If you went from one store to another in downtown Columbus, Cleveland or Cincinnati, the security people would tell you that young people make up at least 53 percent of the problem."

The theme of the 1975-76 campaign is "They Won't Catch Me" which was suggested by a panel of distributive education students from the Columbus area who worked on the in-school campaign last year.

"We want young people who say that we won't catch them, to understand that law enforcement departments, the courts and retail merchants have been forced by economics to deal with this problem," Brown said.

Losses across the country are close to 5.8 billion a year, approximately $16 million a day, as estimated by the U.S. Department of Commerce. Each Ohio family has to shell out an average of $150 a year for higher prices as a result of shoplifting, and a 20 percent increase in 1975 is expected when all the figures are in.

John Mahaney, President of the Ohio Council of Retail Merchants, speaking with the Attorney General at a news conference said:

> "The shoplifting campaign last year was conducted by interested distributive education students who scheduled anti-shoplifting seminars and assemblies in their elementary and junior high schools. The overall

effect of the pilot project in 1974—where youth worked with youth—was extremely satisfying. Over 40 senior high school distributive education classes became involved and reached over 35,000 students in grades 4-10. The 1974-75 anti-shoplifting campaign was innovative for Ohio and the nation. As far as I know, no other state has ever had a statewide anti-shoplifting campaign where students directly coordinated with students to alleviate crime.

The Ohio Criminal Code considers theft of merchandise of a value less than $150 to be a misdemeanor of the first degree upon the first offense. It subjects the offender to a maximum jail sentence of six months and a maximum fine of $1,000. If it's the offender's second conviction on a theft offense, then regardless of the value of the merchandise stolen, the crime is a felony of the fourth degree and carries a maximum fine of $2,500. The felony penalty also applies to the first offense if the value of the stolen merchandise exceeds $150.

*From *Report from Attorney General William J. Brown*, Volume IV, Issue 3 (December 31, 1975). Reprinted by permission.

CENTER PROGRAMS

LAW RESOURCE PERSONNEL PROGRAM

With its volunteer pool of judges, attorneys, law enforcement officers, ex-offenders, and corrections officials, the Center for Law-Related Education has been able to offer the following services for the third consecutive year to Hamilton County teachers and administrators.

- –School classroom visitations for the purpose of discussing with students particular legal questions and/or problems;
- –Assistance for educators in arranging and conducting field trips to various institutions within the criminal justice system;
- –Consultation with teachers regarding a particular legal question or topic that is being taught in the classroom.

From July, 1975, to December, 1975, the Center has arranged for approximately fifty-nine (59) presentations in individual classrooms and student groups and for approximately 450 students to visit the Hamilton County Municipal Courts, the Courts of Common Pleas and/or the Federal District Courts. This represents a substantial increase over the number of programs arranged by the Center in a similar period of time in each of the past two years.

During this period of time, a large number of different persons have participated in the program. Among the various types of persons who have been involved are:

Law Enforcement
Federal Bureau of Investigation
United States Secret Service
State of Ohio Highway Patrol
Hamilton County Sheriff's Department
Police Division of the City of Cincinnati
Sharonville Police Department
Colerain Police Department
Private Investigator

The Courts
Hamilton County Municipal Court Judges
Hamilton County Prosecutor's Office
Public Defender's Office
Private Attorneys-at-Law
Deputy, U.S. District Court
Bail Bondsman

Corrections
Ohio Youth Commission
Hamilton County Juvenile Probation Officers
Talbert House
Seventh Step Foundation

The Center's Board of Directors and staff wish to express their sincere and continuing appreciation to these persons who have so generously donated their services to this important Center program. In its previous issue of *Focus on Law* (Vol. II, No. 1), the Center recognized those persons who had participated in this program from April to June, 1975. In this issue, the Center wishes to recognize those who were involved in the Law Personnel Resource Program from July to December, 1975. They were:

July, 1975

On July 7, MR. JAMES (SLIM) LIGGINS of the Seventh Step Foundation, addressed a group of high school students from WITHROW HIGH SCHOOL on the topic "Prison Life" as part of a special program arranged by their teacher MR. THOMAS MITCHELL.

MR. MARTIN McCONNELL, Attorney-at-Law, spoke on July 8, to MR. THOMAS MITCHELL'S class at WITHROW HIGH SCHOOL on the topic "Student Rights and Responsibilities."

September, 1975

SGT. DONALD GRAMKE and MR. JACK BYWATER of the Hamilton County Sheriff's Department spoke to a tenth-grade class of MS. JOETTA MEYERS of MT. HEALTHY HIGH SCHOOL on "Crime in Cincinnati Suburbs" on September 12.

On September 15 approximately 160 senior American Government students of MR. JAMES FIEHRER, MT. HEALTHY HIGH

SCHOOL, heard a presentation on "Student Rights and Responsibilities" given by MR. P. REED LEMASTERS, Attorney-at-Law.

"The Role of the Criminal Attorney" was the topic presented by MR. TIMOTHY HICKEY, Attorney-at-Law, to thirty tenth-twelfth-grade students of MR. RONALD HACKER, PRINCETON HIGH SCHOOL, on September 22.

On September 25, two tenth- to twelfth-grade classes of MR. RONALD HACKER, PRINCETON HIGH SCHOOL were visited by MR. THOMAS AMANN, Attorney-at-Law, and heard his presentation on "Role of the Criminal Attorney."

October, 1975

MR. DONALD SCHMERBER, Attorney-at-Law, spoke to a group of senior Business Law students on October 1, on "Law and the Minor," as requested by MS. CONNIE CAMPBELL, MT. HEALTHY HIGH SCHOOL.

On October 2, MR. RONALD HACKER'S tenth- to twelfth-grade students were addressed by MR. DONALD BOLSINGER, Attorney-at-Law, on the topic "The Rights and Responsibilities of Minors," at PRINCETON HIGH SCHOOL.

On October 3, Attorney DONALD BOLSINGER returned to PRINCETON HIGH SCHOOL to speak to another of MR. RONALD HACKER'S classes on the topic "The Rights and Responsibilities of Minors."

Approximately fifty twelfth-grade American Government students of MR. RAYMOND BAUER, MT. HEALTHY HIGH SCHOOL, were visited on October 7, by MR. JAMES BRADLEY, Attorney-at-Law, who spoke on "First Amendment Rights."

A group of University of Cincinnati student teachers were addressed by DR. DAVID NAYLOR on "Legal Rights and Responsibilities of Teachers," on October 8 as requested by DR. JOHN TOLLAKSON.

On October 8, "The Courts" was the topic presented by MR. KENNETH BAYLEN, Attorney-at-Law, to seventy of MR. AL RIESENBERG'S ninth- to twelfth-grade "Teenagers and the Law" students at SYCAMORE HIGH SCHOOL.

SPECIALIST KATHY MIENKE of the Hamilton County Sheriff's Department visited PRINCETON HIGH SCHOOL on October 9, and presented the topic "Rape" to a "You and the Law" class of MR. RONALD HACKER.

On October 9, MR. AL RIESENBERG'S class of ninth- to twelfth-grade students at SYCAMORE HIGH SCHOOL heard a presentation of "The Courts," given by MR. W. SCOTT BROWN, Deputy of the U.S. District Courts.

MS. RANDAL BLOCK, Attorney-at-Law, discussed "Law as a Career" with approximately seventy of MR. AL RIESENBERG'S students at SYCAMORE HIGH SCHOOL on October 13.

On October 14, SGT. DONALD GRAMKE, of the Hamilton County Sheriff's Department, spoke on "Role of the Police" to two classes of MR. RONALD HACKER'S students at PRINCETON HIGH SCHOOL.

On October 14, MR. RICHARD KOLKOSKI, Attorney-at-Law, spoke to two classes of SYCAMORE HIGH SCHOOL students on "Law as a Career," at the request of their teacher, MR. AL RIESENBERG.

"The Courts" was the topic presented by MR. D. GARY REED, Attorney-at-Law, to two classes of MR. AL RIESENBERG, of SYCAMORE HIGH SCHOOL on October 15.

MR. WILLIAM WYLER, Attorney-at-Law, spoke before students in "You and the Law" class at PRINCETON HIGH SCHOOL on October 15, on the topic "Criminal and Civil Law," as requested by MR. RONALD HACKER.

Two of MR. RONALD HACKER'S classes at PRINCETON HIGH SCHOOL were visited by SGT. RAYMOND WALLIN of the Sharonville Police Department on October 15, and heard his presentation on "Role of the Police."

"Narcotics" was the topic discussed by MS. JEANNIE WHITTAKER, of the Cincinnati Health Department, with PRINCETON HIGH SCHOOL students on October 16, as requested by their teacher MR. RONALD HACKER.

On October 17, two of the classes of MR. AL RIESENBERG of SYCAMORE HIGH SCHOOL, heard a presentation on "Law as a Career" by MR. SCOTT CROOKS, Attorney-at-Law.

On October 20, one of MR. RONALD HACKER'S "You and the Law" classes at PRINCETON HIGH SCHOOL heard the topic "The Role of the Prosecutor," as presented by Assistant Hamilton County Prosecutor, MR. MERLYN SHIVERDECKER.

On October 21, Assistant Hamilton County Prosecutor, MR. MERLYN SHIVERDECKER, returned to PRINCETON HIGH SCHOOL to address two additional "You and the Law" classes of MR. RONALD HACKER.

Private Investigator, MR. MAJOR COX, spoke on "The Role of the Private Investigator" and demonstrated lie detector equipment for the tenth- to twelfth-grade students of MR. DANIEL RIVERS, at HUGHES HIGH SCHOOL, on October 21.

"The Role of the Secret Service" was the topic presented October 21, to thirty American Government students of MR. DANIEL RIVERS, HUGHES HIGH SCHOOL, by MR. JAMES CLEM, Secret Service Agent.

On October 21, SPECIALIST KATHY MIENKE of the Hamilton County Sheriff's Department discussed the topic of "Rape" with two tenth- to twelfth-grade classes of MR. RONALD HACKER, PRINCETON HIGH SCHOOL.

A Mock Trial was conducted with the students of MR. AL RIESENBERG and MR. DENNIS McFADDEN, SYCAMORE HIGH SCHOOL, on October 21, by DR. DAVID NAYLOR of the Center for Law-Related Education.

On October 22, SISTER PATRICIA MIRSHBERGER'S twelfth-grade Business Education class at MARIAN HIGH SCHOOL heard MR. MARTIN PINALES, Attorney-at-Law, speak on the "An Analysis of Laws Involving Minors."

On October 23, the students of MS. CONNIE CAMPBELL, MT. HEALTHY HIGH SCHOOL visited the HAMILTON COUNTY MUNICIPAL COURT as arranged by the Center in cooperation with MR. PHILIP MULDOON, Deputy Director of Corrections.

JUDGE PETER OUTCALT, Hamilton County Municipal Court Judge, spoke to seventy students at HUGHES HIGH SCHOOL on "Role of a Judge," on October 29, as requested by their teacher, MR. DANIEL RIVERS. Judge Outcalt's presentation was videotaped for use with other classes.

Thirty-seven students of MRS. JOANN McCANE, FINNEYTOWN HIGH SCHOOL, visited the HAMILTON COUNTY MUNICIPAL COURT on October 29, as arranged by the Center in cooperation with MR. PHILIP MULDOON.

On October 30, DR. DAVID NAYLOR, Center for Law-Related Education, spoke to an eleventh- and twelfth-grade American Government class at COLERAIN HIGH SCHOOL on the topic "The Nature of Crime," as requested by MR. TOM WHITE, a Colerain student of MR. JAMES MARTIN.

Forty-five of MR. RONALD HACKER'S students from PRINCETON HIGH SCHOOL visited the HAMILTON COUNTY MUNICIPAL COURT on October 31, as arranged by the Center in cooperation with MR. PHILIP MULDOON.

November, 1975

On November 4, another fifty-five PRINCETON HIGH SCHOOL students visited the HAMILTON COUNTY MUNICIPAL COURT as requested by their teacher MR. RONALD HACKER, and arranged by the Center in cooperation with MR. PHILIP MULDOON.

"The Constitution–How Viable," was the topic discussed with MS. ANN FIORINI'S eleventh grade American History class at MT. HEALTHY HIGH SCHOOL, by MR. JAMES LEE, Attorney-at-Law, on November 4.

MR. ROBERT DAVID, Attorney-at-Law, spoke to two senior high Economics classes of MR. JAMES JURGENS, ST. XAVIER HIGH SCHOOL, on the topic "Arbitration" on November 5.

On November 6, a class of MR. AL RIESENBERG, SYCAMORE HIGH SCHOOL was visited by MR. DONALD LEROY, of the Ohio Youth Commission, who spoke on "Juvenile Corrections."

On November 7, DR. DAVID NAYLOR was invited to speak before UNIVERSITY OF CINCINNATI undergraduate students in a class taught by DR. MARY FRIEND ADAMS. He discussed the need for and demonstrated methods to teach law-related education programs in the social studies curriculum.

DR. DAVID NAYLOR discussed "The Nature of and Need for Law-Related Education in the Schools" with the students in the graduate class or DR. ESTELLA MATRIANO, on November 11, at the UNIVERSITY OF CINCINNATI.

MR. KENNETH LONG, a Probation Officer for the Hamilton County Juvenile Court, discussed "The Duties of a Probation Officer," with ninth- to twelfth-grade students of MR. AL RIESENBERG, SYCAMORE HIGH SCHOOL on November 13. His presentation was videotaped for use with other classes.

On November 13, MR. ROBERT BOWLING'S MT. HEALTHY HIGH SCHOOL "Law and Justice" class heard a presentation by SPECIAL AGENT BRADLEY BENSON of the Federal Bureau of Investigation on "The Role of the F.B.I."

SPECIAL AGENT BRADLEY BENSON, of the Federal Bureau of Investigation, spoke on "The Role of the F.B.I.," to students of MR. TERRY RAULIN, MT. HEALTHY HIGH SCHOOL, on November 13.

Approximately fifty of MR. AL RIESENBERG'S SYCAMORE HIGH SCHOOL students visited the FEDERAL DISTRICT COURT on November 18 and an additional fifty on November 19, as arranged by the Center in cooperation with MR. W. SCOTT BROWN, Deputy Clerk of the United States District Court.

"Juveniles in Trouble" was the topic presented by MR. MICHAEL HOOBLER, Probation Officer with the Hamilton County Juvenile Court, to the ninth- and tenth-grade students of MS. JOETTA MEYERS and MR. ROBERT BOWLING at MT. HEALTHY HIGH SCHOOL on November 18.

Patrolmen ANTHONY RUSSO and GARY WATSON of the Cincinnati Police Division visited EASTERN HILLS ELEMENTARY SCHOOL on November 18, and spent the day talking with the students, grades 1-6, and answering their questions, in several programs arranged at the request of MS. SUSAN ROHMAN.

SGT. DONALD GRAMKE of the Hamilton County Sheriff's Department spoke on "Apartment Security," to the senior high class of MS. DORIS SCHNURRENBERGER, SYCAMORE HIGH SCHOOL, on November 20.

On November 20, a "Youth and the Law" class taught by MR. RONALD HACKER, PRINCETON HIGH SCHOOL, heard a presentation by bail bondsman, MR. EDGAR SHOTT, on "The Role of a Bondsman."

MR. RAYMOND BAUER'S MT. HEALTHY HIGH SCHOOL "Career Exploration" class was visited on November 25, by MR. PETER DeHAAN, Attorney-at-Law, who discussed "Law as a Career."

"Crime and the Criminal Attorney" was the topic presented to thirty PRINCETON HIGH SCHOOL students on November 26, by MR. MICHAEL BUSCHBACHER, Attorney-at-Law, as requested by their teacher MR. RONALD HACKER.

December, 1975

On December 4, MR. JEROME DONNELLON, Attorney-at-Law, spoke to students of MR. RONALD HACKER, PRINCETON HIGH SCHOOL, on the topic "The Ten Basic Freedoms of the U.S."

On December 5, SPECIALIST KATHY MIENKE, Hamilton County Sheriff's Department, discussed the topic of "Rape" with a "You and the Law" class taught by MR. RONALD HACKER, PRINCETON HIGH SCHOOL.

Seventy American Government students of MR. DANIEL RIVERS, HUGHES HIGH SCHOOL, heard a presentation by MR. BARRY ISAACS, Attorney-at-Law, on the subject "Role of the Public Defender," on December 5.

The Center arranged for approximately sixty students of SYCAMORE HIGH SCHOOL to visit both the HAMILTON COUNTY MUNICIPAL COURT and FEDERAL DISTRICT COURT on December 9, as requested by MR. DENNIS MCFADDEN.

On December 9, THE HONORABLE JOSEPH LUEBBERS, Hamilton County Municipal Court Judge, spoke to a group of PRINCETON HIGH SCHOOL students on "The Role of a Judge," as requested by MR. RONALD HACKER.

On December 10 PATROLMAN JAMES RUHL, Colerain Township Police Department, visited the sixth-grade class of MS. GERALDINE HESSLING, WEIGEL ELEMENTARY SCHOOL, and discussed "The Law Enforcement Officer."

MR. TERRY RAULIN'S American Government class heard a presentation on "Rape," by SPECIALIST KATHY MIENKE, Hamilton County Sheriff's Department, at MT. HEALTHY HIGH SCHOOL on December 11.

"Domestic Relations and the Law" was the topic presented by MS. DEBORAH GAINES, Attorney-at-Law, to one of MR. RONALD HACKER'S classes at PRINCETON HIGH SCHOOL on December 12.

On December 15, MS. LAURA HARKNESS, Talbert House, spoke to thirty PRINCETON HIGH SCHOOL students on "Prison Life," at the request of MR. RONALD HACKER.

Approximately 100 eighth-grade students from ST. JUDES SCHOOL visited both the HAMILTON COUNTY MUNICIPAL COURT and FEDERAL DISTRICT COURT, on December 16, through special arrangements made by the Center in cooperation with MR. PHILIP MULDOON and MR. W. SCOTT BROWN.

MR. LARRY NIEDERHELMAN'S MT HEALTHY HIGH SCHOOL tenth-grade students discussed "The Rights and Responsibilities of Minors" with MR. ALLEN MILLER, Attorney-at-Law, on December 16.

State Highway Patrolman, MR. BILL BAUGUS, discussed "The Role of the State Highway Patrol" on December 17, at SYCAMORE HIGH SCHOOL with approximately sixty of MR. AL RIESENBERG'S students. The discussion was videotaped for use with other classes.

"The Changing Role of the Police" was the topic presented by PATROLMAN JAMES RUHL, Colerain Township Police Department, to a class of American History students at COLERAIN SENIOR HIGH SCHOOL, on December 18. It was requested by

STEVE BRAUN, a student in the class taught by MR. JAMES MARTIN.

Fifty of MR. RONALD HACKER'S PRINCETON HIGH SCHOOL students visited the HAMILTON COUNTY MUNICIPAL COURT on December 22.

On December 23, SPECIALIST KATHY MIENKE, Hamilton County Sheriff's Department, spoke to a class of MR. WILLIAM BRANDENBURGH at PRINCETON HIGH SCHOOL on the subject of "Rape."

SUPREME COURT DECISIONS

Rights of the Accused: An Erosion of Miranda?
State of Michigan v. Mosley (December 2, 1975)

On the basis of information supplied by an anonymous caller, Detroit Police Department Detective James Cowie arrested Richard Bert Mosley in April, 1971, in connection with two recent robberies in that city. Taken to the police station, Mosley was advised of his "Miranda rights" and signed the department's constitutional rights notification certificate. When Detective Cowie began to interrogate him about the two robberies, however, Mosley advised Cowie that he did not wish to answer any questions about the robberies. The interrogation ceased and Mosley was taken to a ninth-floor cell block.

A few hours later, Detective Hill of the Detroit Homicide Bureau brought Mosley from the cell block to an office on another floor of the police building for questioning about another crime, the fatal shooting of a man during yet another robbery. Though Mosley had not been arrested on this charge nor questioned about it by Detective Cowie, the original tip to Office Cowie had implicated Mosley in the shooting.

Before questioning Mosley about the shooting, Detective Hill advised Mosley of his "Miranda rights" and had Mosley sign the notification form. Though Mosley at first defnied involvement, when told he had been named the "shooter" by one Anthony Smith, Mosley, while not confessing to the crime, made a statement implicating himself in the homicide. The interrogation lasted approximately fifteen minutes during which Mosley did not ask to consult with an attorney or indicate he did not wish to discuss the shooting.

Mosley was subsequently charged with first-degree murder. Before the trial, he moved to suppress his incriminating statement on several grounds. One of his contentions was that it was constitutionally impermissible for Detective Hill to have questioned him about the murder since he had told Detective Cowie he did not want to answer any questions about the robberies. The motion was denied by the trial court and the incriminating statement was subsequently introduced in evidence against Mosley at his trial. Found by a jury to be guilty of first-degree murder, the court imposed a mandatory sentence of life imprisonment.

On appeal, the Michigan Court of Appeals reversed the conviction. The Court held that the questioning by Detective Hill violated the *Miranda* doctrine and remanded the case for a new trial with instructions that Mosley's statement be suppressed as evidence. The Michigan Supreme Court refused further appeal but the Supreme Court of the United States granted the State's petition for certiorari, holding the issue as an important constitutional question.

The issue before the court was whether the conduct of the Detroit police that led to Mosley's incriminating statement did in fact violate the *Miranda* "guidelines" so as to render the statement inadmissible in evidence against Mosley at his trial.

In an Opinion of the Court written by Justice Stewart, the Court sought to clarify the meaning of the following passage in the *Miranda* opinion:

> Once warnings have been given, the subsequent procedure is clear. If the individual indicates in any manner, at any time prior to or during questioning, that he wishes to remain silent, the interrogation must cease. At this point he has shown that he intends to exercise the Fifth Amendment privilege; any statement taken after the person invokes his privilege cannot be other than the product of compulsion, subtle or otherwise. Without the right to cut off questioning, the setting of in-custody interrogation operates on the individual to overcome free choice in producing a statement after the privilege has been once invoked.

What does this passage mean? Should it be literally read to mean that once a person has invoked his right to silence, he "can never again be subjected to custodial interrogation by any police officer at any time or place on any subject?" Should it be interpreted as barring any statement once the person has invoked his privilege even if the statement "were volunteered by the person in custody, without any further interrogation whatever?" Or, should it be understood "to require only the immediate cessation of questioning, and to permit a resumption of interrogation after a momentary respite?"

The Court rejected all three of these interpretations by contending each would lead to "absurd and unintended results."

For the Court, the critical safeguard at issue was a person's right to terminate questioning and whether that right was "scrupulously honored." It found that in this case, Mosley's "right to cut off questioning" was fully respected. It held:

> The police here immediately ceased the interrogation, resumed questioning only after the passage of a significant period of time and the provision of a fresh set of warnings, and restricted the second interrogation to a crime that had not been a subject of earlier interrogation.

The five members who joined in the majority decision and Justice White who concurred with the result, concluded that the admission of Mosley's incriminating statement was not violative of the principles of *Miranda* v. *Arizona* (1966).

In his dissenting opinion, with whom Justice Marshall joined, Justice Brennan expressed great concern that the Court's decision was but another step taken to erode the *Miranda* decision. He warned:

> Today's distortion of Miranda's constitutional principles can be viewed only as yet another step toward the erosion and, I suppose, ultimate overruling of Miranda's enforcement of the privilege against self-incrimination.

Justice Brennan suggested the Court's ruling failed to assure "with reasonable certainty that a confession is not obtained under the influence of the compulsion inherent in interrogation and detention."

He argued that once a suspect exercised the right to remain silent, the only circumstance permitted by *Miranda* under which questioning could be resumed was if the suspect had an attorney present. He pointed out, however, that even then, further questioning was not permissible in all circumstances.

Asserting that the Court's decision "virtually empties *Miranda* of principle," Justice Brennan observed that states have "power to impose higher standards governing police practices under state law than is required by the Federal Constitution." He implied that, given the trend of recent decisions by the Supreme Court of the United States to dilute the *Miranda* safeguards, each state should seriously consider imposing such standards if the principles of the Miranda decision were to remain in force.

Rights of the Accused: Must the State Honor Its "Plea Bargain?"

Santobello v. New York (December, 1971)

In 1969, the State of New York indicted Rudolph Santobello on two felony counts, Promoting Gambling in the First Degree, and Possession of Gambling Records in the First Degree. After plea bargaining negotiations, Santobello withdrew his non-guilty plea and, on June 16, 1969, pleaded guilty to a lesser included-offense, Possession of Gambling Records in the Second Degree. The prosecutor agreed to make no recommendation as to sentence. The Court accepted the plea and set a date for sentencing.

A series of delays followed so that by September 23, 1969, Santobello had still not been sentenced. By this time, he acquired new counsel who moved to withdraw the guilty plea alleging that Santobello had not known at the time of his guilty plea that crucial evidence against him had been obtained as the result of an illegal search. Three motions were filed with the court.

The new motions caused additional delay until November 26, 1969, when the court denied them and set January 9, 1970, as the date for sentencing. On January 9, Santobello appeared before a new judge, the former judge by this time having retired. Another prosecutor other than the one who had negotiated the plea now represented the State in the proceedings. The new prosecutor recommended the maximum one-year sentence, citing Santobello's past criminal record and alleged links with organized crime.

Defense counsel objected to the prosecutor's recommendation, arguing the prosecution had promised Santobello, before the plea was entered, that there would be no sentence recommendation. Apparently ignorant of the first prosecutor's promise, the new prosecutor argued there was nothing in the record to support Santobello's claim of a promise and maintained his right to recommend sentence.

The sentencing judge ended the discussion. He stated he was "not at all influenced by what the District Attorney" recommended but would make his decision based upon the contents of the pre-sentence probation report. That report, he indicated, had convinced him of the need to incarcerate Santobello. Thus, he proceeded to impose the maximum sentence of one year in prison.

Santobello appealed the sentence on the grounds that the prosecution had breached its agreement and failed to abide by its promise not to recommend sentence. The appeal was denied by both of New York's appellate courts. Santobello then petitioned the Supreme Court of the United States, which granted certiorari.

In a opinion written by Chief Justice Warren Burger, the Court acknowledged the constitutionality of plea bargaining, remarking it was "an essential component of the administration of justice." The Court noted that such a process, when properly administered, was necessary and to be encouraged. It commented:

> If every criminal charge was subjected to a full-scale trial, the States and the Federal Government would need to multiply by many times the number of judges and court facilities.
>
> Disposition of charges after plea discussion is not only an essential part of the process but a highly desirable part for many reasons. It leads to prompt and largely final disposition of most criminal cases; it avoids much of the corrosive impact of enforced idleness during pre-trial confinement for those who are denied release pending trial; it protects the public from those accused persons who are prone to continue criminal conduct even while on pretrial release; and, by shortening the time between charge and disposition, it enhances

whatever may be the rehabilitative prospects of the guilty when they are ultimately imprisoned.

The Court pointed out, however, that, in plea bargaining, safeguards must exist, fairness must prevail. The guilty plea must be "voluntary and knowing," and if promises are made, they must be made known and fulfilled.

In this case the Court felt the promise had not been honored by the prosecution. Whether or not the sentencing judge was influenced by the prosectution's recommendation of a sentence was held not to be the essential point. Rather, the fault was with the prosecution which did not abide by its promise. The Court, therefore, recommended that the judgment be vacated and the case be reconsidered by the state court as to whether Santobello should be permitted to withdraw his guilty plea or be resentenced by a different judge.

In a concurring opinion, Justice Douglas reiterated the serious nature of the plea bargain process since it is based on a guilty plea which constitutes a waiver of the right to a jury trial. While noting that plea bargaining is not unconstitutional *per se*, circumstances do exist when a guilty plea may be voided. These circumstances include: (a) the threat of physical harm; (b) the threat to use false testimony; (c) the threat to bring additional prosecutions; (d) the failure to inform a defendant of his right to counsel; and (e) the nature of a prosecutor's promise.

Agreeing on the need for a constitutional rule for cases involving plea bargaining, Justice Douglas stated his belief that failure of the prosecutor to adhere to his plea bargain should not be permitted and reiterated the Court's position as to remedy in such cases.

In an opinion by Justice Marshall, which concurred in part and dissented in part with the Court majority, the basic difference was in remedy. Justice Marshall, who was joined by Justice Brennan and Justice Stewart, argued that Santobello should be permitted to withdraw his guilty plea. When the state breaks the bargain, the defendant should have the right to withdraw his guilty plea and reclaim his right to trial.

APPLICATION

COURSE TITLE:_____

COURSE LOCATION:_____

NAME:_____

SOCIAL SECURITY NO:_____

HOME ADDRESS:_____

ZIP:_____

WITHIN CINCINNATI OR GOLF MANOR_____

WITHIN STATE_____

HOME TELEPHONE:_____

SCHOOL NAME:_____

SCHOOL ADDRESS:_____

ZIP:_____

SCHOOL SYSTEM:_____

SCHOOL TELEPHONE:_____

POSITION NOW HELD:_____

COURSES TAUGHT AND/OR GRADE LEVEL:_____

_____

YEARS OF TEACHING EXPERIENCE:_____

YEARS IN EDUCATION (FOR ADMINISTRATORS)_____

HIGHEST DEGREE HELD:_____

BACHELORS_____

MASTERS_____

OTHER (PLEASE SPECIFY)_____

PRIOR EXPERIENCE OR TRAINING IN LEGAL EDUCATION:__

_____

SEND TO: Dr. David T. Naylor
Center for Law-Related Education
635 Pharmacy - #2
University of Cincinnati
Cincinnati, Ohio 45221

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